VITAL SPEECHES OF THE DAY

VOL. XLVI, No. 24
$1.25 per copy

OCTOBER 1, 1980

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VOL. XLVI OCTOBER 1, 1980 NO. 24

Five-Year Economic Program for U.S.

LET'S GET AMERICA WORKING AGAIN

By RONALD REAGAN, *Former Governor of California*

Delivered before the International Business Council, Chicago, Illinois, September 9, 1980

ALMOST two months ago, in accepting the Presidential nomination of my party, I spoke of the historically unique crisis facing the United States. At that time I said:

> "Never before in our history have Americans been called upon to face three grave threats to our very existence, any one of which could destroy us. We face a disintegrating economy, a weakened defense and an energy policy based on the sharing of scarcity."

Now since I first spoke those words, no action has been taken by President Carter to change this grave, unprecedented situation.

In fact, during the last few months the overall economic situation in the United States has deteriorated markedly. The cumulative effect of the economic policies the Carter Administration has followed over the last three and one-half years has damaged our economy much more than virtually anyone could have foreseen. Interest rates and inflation have become unconscionably high. Almost two million Americans have lost their jobs this year alone. And the tax burden continues to steadily increase.

In effect, Mr. Carter's economic failures are an assault on the hopes and dreams of millions of American families.

They are essentially an unprecedented failure of Presidential leadership that strikes at the very heart of every American family, every factory, every farm, every community.

Make no mistake about it: what Mr. Carter has done to the American economy is not merely a matter of lines and graphs on a chart. Individuals and families are being hurt and hurt badly. Factories are empty; unemployment lines are full.

Every American family has felt what the Carter inflation means to hopes for a better life. Every visit to the supermarket reminds us of what Mr. Carter's policies have done. We pay the price of Carter's inflation every time we buy food or clothing or other essentials.

We are dealing with an unprecedented crisis that takes away not only wages and savings, but hopes and dreams.

And what is his response to this tragedy?

Words. And more words.

Two weeks ago, he gave us his latest in a series of economic policy shifts. This one is the fifth "new economic program" in the last three and one-half years. It contains rhetoric that Mr. Carter apparently hopes will lead us to believe he has finally discovered free enterprise.

Hearing him and members of his Administration use the language of free enterprise reminds me of one of the stories of Mark Twain. He had a habit of using very foul language, which distressed his wife to no end. She decided on a form of shock treatment to cure him of his habit. One day he came home, and she stood in front of him and recited every word of the salty language she had ever heard him use. He listened patiently and when she was finished, said: "My

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VITAL SPEECHES OF THE DAY is published twice a month by the CITY NEWS PUBLISHING CO., (Inc. 1911), Box 606, Southold, N. Y. 11971. Telephone 516-765-2890. Genevieve T. Daly, President, Joyce Fox, Vice-President, Thomas F. Daly, III, Secretary-Treasurer.
VITAL SPEECHES (ISSN 0042-742X)

Subscription Rates: $18.00 a year. Two years $33.30. Single copies $1.25. Back issues, if available, within two years $1.50 a copy, beyond two years $1.70 each, prior to 1959 $3.00 each. Microfilm editions $8.00 per volume plus postage. On order under $8.00, remittance must accompany order.

Vital Speeches is Indexed in The Reader's Guide to Periodical Literature. An annual index is printed each November and distributed to all subscribers. Cumulative Index. Volumes 1-25, $15.00 per copy plus postage. Volume Binder for Vital Speeches $3.50 plus postage. Vital Speeches will be found on file in thousands of public, college and high school libraries throughout the United States.

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dear, you have the words all right, you just don't have the tune."

I'd like to speak to you today about a new concept of leadership, one that has both the words and the music. One based on faith in the American people, confidence in the American economy, and a firm commitment to see to it that the Federal Government is once more responsive to the people.

That concept is rooted in a strategy for growth, a program that sees the American economic system as it is — a huge, complex, dynamic system which demands not piecemeal Federal packages, or pious hopes wrapped in soothing words, but the hard work and concerted programs necessary for real growth.

We must first recognize that the problem with the U.S. economy is swollen, inefficient government, needless regulation, too much taxation, too much printing-press money. We don't need any more doses of Carter's eight- or 10-point programs to "fix" or fine tune the economy. For three and one-half years these ill-thought-out initiatives have constantly sapped the healthy vitality of the most productive economic system the world has ever known.

Our country is in a downward cycle of progressive economic deterioration that must be broken if the economy is to recover and move into a vigorous growth cycle in the 1980's.

We must move boldly, decisively and quickly to control the runaway growth of Federal spending, to remove the tax disincentives that are throttling the economy, and to reform the regulatory web that is smothering it.

We must have and I am proposing a new strategy for the 1980's.

Only a series of well-planned economic actions, taken so that they complement and reinforce one another, can move our economy forward again.

We must keep the rate of growth of government spending at reasonable and prudent levels.

We must reduce personal income tax rates and accelerate and simplify depreciation schedules in an orderly, systematic way to remove disincentives to work, savings, investment and productivity.

We must review regulations that affect the economy and change them to encourage economic growth.

We must establish a stable, sound and predictable monetary policy.

And we must restore confidence by following a consistent national economic policy that does not change from month to month.

I am asked: 'Can we do it all at once?' My answer is: 'We must.'

I am asked: 'Can we do it immediately?' Well, my answer is: 'No, it took Mr. Carter three and one-half years of hard work to get us into this economic mess. It will take time to get us out.'

I am asked: 'Is it easy?' Again, my answer is: 'No. It is going to require the most dedicated and concerted peacetime action ever taken by the American people for their country.'

But we can do it, we must do it, and I intend that we will do it.

We must balance the budget, reduce tax rates and restore our defenses.

These are the challenges. Mr. Carter says he can't meet these challenges; that he can't do it. I believe him. He can't. But, I refuse to accept his defeatist and pessimistic view of America. I know we can do these things, and I know we will.

But don't just take my word for it. I have discussed this with any number of distinguished economists and businessmen, including such men as George Shultz, William Simon, Alan Greenspan, Charls Walker and James Lynn. The strategy is based on solid economic principles and basic experience in both government and the marketplace. It has worked before and will work again.

Let us look at how we can meet this challenge.

One of the most critical elements of my economic program is the control of government spending. Waste, extravagance, abuse and outright fraud in Federal agencies and programs must be stopped. The billions of the taxpayers' dollars that are wasted every year throughout hundreds of Federal programs, and it will take a major, sustained effort over time to effectively counter this.

Federal spending is now projected to increase to over $900 billion a year by fiscal year 1985. But, through a comprehensive assault on waste and inefficiency, I am confident that we can squeeze and trim 2 percent out of the budget in fiscal year 1981, and that we will be able to increase this gradually to 7 percent of what otherwise would have been spent in fiscal year 1985.

Now this is based on projections that have been made by groups in the government. Actually I believe we can do even better. My goal will be to bring about spending reductions of 10 percent by fiscal year 1984.

Crucial to my strategy of spending control will be the appointment to top government positions of men and women who share my economic philosophy. We will have an administration in which the word from the top isn't lost or hidden in the bureaucracy. That voice will be heard because it is a voice that has too long been absent from Washington — it is the voice of the people.

I will also establish a citizen's task force, as I did in California, to rigorously examine every department and agency. There is no better way to bring about effective government than to have its operations scrutinized by citizens dedicated to that principle.

I already have as part of my advisory staff a Spending Control Task Force, headed by my good friend and former director of the Office of Management and Budget, Caspar Weinberger, that will report on additional ways and techniques to search out and eliminate waste, extravagance, fraud and abuse in Federal programs.

This strategy for growth does not require altering or taking back necessary entitlements already granted to the American people. The integrity of the Social Security System will be defended by my administration and its benefits will once again be made meaningful.

This strategy does require restraining the Congressional desire to "add-on" to every old program and to create new programs funded by deficits.

This strategy does require that the way Federal programs are administered will be changed so that we can benefit from the savings that will come about when, in some instances, administrative authority can be moved back to the states.

The second major element of my economic program is a tax rate reduction plan. This plan calls for an across-the-board, three-year reduction in personal income tax rates —

10 percent in 1981, 10 percent in 1982 and 10 percent in 1983. My goal is to implement three reductions in a systematic and planned manner.

More than any single thing, high rates of taxation destroy incentive to earn, to save, to invest. And they cripple productivity, lead to deficit financing and inflation, and create unemployment.

We can go a long way toward restoring the economic health of this country by establishing reasonable, fair levels of taxation.

But even the extended tax rate cuts which I am recommending still leave too high a tax burden on the American people. In the second half of the decade ahead we are going to need, and we must have, additional tax rate reductions.

Jimmy Carter says it can't be done. In fact, he says it shouldn't be done. He favors the current crushing tax burden because it fits into his philosophy of government as the dominating force in American economic life.

Official projections of the Congressional Budget Office show that by fiscal year 1985, if the current rates of taxation are still in effect, Federal tax revenues will rise to over $1 trillion a year.

Surely Jimmy Carter isn't telling us that the American people can't find better things to do with all that money than see it spent by the Federal Government.

Assuming a continuation of current policies in government, Congressional projections show a huge and growing potential surplus by 1985. These surpluses can be used in two basic ways: one, to fund additional government programs, or, two, to reduce tax rates.

That choice should be up to the American people.

The most insidious tax increase is the one we must pay when inflation pushes us into higher tax brackets. As long as inflation is with us, taxes should be based on real income. Federal personal income taxes should be based on real income. Federal personal income taxes should be indexed to compensate for inflation, once tax rates have been reduced.

We also need faster, less complex depreciation schedules for business. Outdated depreciation schedules now prevent many industries, especially steel and auto, from modernizing their plants. And faster depreciation would allow these companies to generate more capital internally, permitting them to make the investment necessary to create new jobs, and to become more competitive in world markets.

Another vital part of this strategy concerns government regulation. The subject is so important and so complex that it deserves a speech in itself — and I plan to make one soon. For the moment, however, let me say this:

Government regulation, like fire, makes a good servant but a bad master. No one can argue with the intent of this regulation — to improve health and safety and to give us cleaner air and water — but too often regulations work against rather than for the interests of the people. When the real take-home pay of the average American worker is declining steadily, and 8 million Americans are out of work, we must carefully re-examine our regulatory structure to assess to what degree regulations have contributed to this situation. In my administration there should and will be a thorough and systematic review of the thousands of Federal regulations that affect the economy.

Along with spending control, tax reform and deregulation, a sound, stable and predictable monetary policy is essential to restoring economic health. The Federal Reserve Board is, and should remain, independent of the Executive Branch of government. But the President must nominate those who serve on the Federal Reserve Board. My appointees will share my commitment to restoring the value and stability of the American dollar.

A fundamental part of my strategy for economic growth is the restoration of confidence. If our business community is going to invest and build and create new, well-paying jobs, they must have a future free from arbitrary, government action. They must have confidence that the economic "rules-of-the-game" won't be changed suddenly or capriciously.

In my administration, a national economic policy will be established, and we will begin to implement it, within the first 90 days.

Thus, I envision a strategy encompassing many elements — none of which can do the job alone, but all of which together can get it done. This strategy depends for its success more than anything else on the will of the people to regain control of their government.

It depends on the capacity of the American people for work, their willingness to do the job, their energy and their imagination.

This strategy of economic growth includes the growth that will come from the cooperation of business and labor based on their knowledge that government policy is directed toward jobs, toward opportunity, toward growth.

We are not talking here about some static, lifeless econometric model — we are talking about the greatest productive economy in human history, an economy that is historically revitalized not by government but by people free of government interference, needless regulations, crippling inflation, high taxes and unemployment.

Does Mr. Carter really believe that the American people are not capable of rebuilding our economy? If he does, that is even one more reason — along with his record — that he should not be President.

When such a strategy is put into practice, our national defense needs can be met because the productive capacity of the American people will provide the revenues needed to do what must be done.

All of this demands a vision. It demands looking at government and the economy as they exist and not as words on paper, but as institutions guided by our will and knowledge toward growth, restraint and effective action.

When Mr. Carter first took office, he had sufficient budget flexibility to achieve these goals. But he threw away the opportunity to generate new economic growth and to strengthen national security. Now the damage done to the economy by his misguided policies will make the achievement of these crucial objectives far more difficult.

Nevertheless, this nation cannot afford to back away from any of these goals. We cannot allow tax burdens to continue to rise inordinately, inflation to take a stronger hold, or allow our defenses to deteriorate further — without severe consequences.

This task is going to be difficult but our goals are optimistic — as they should be. Success is going to take time, as well as work.

There is only one phrase to describe the last three years and eight months. It has been an American tragedy.

It isn't only that Mr. Carter has increased Federal spending by 58 percent in four years, or that taxes in his 1981 bud-

get are double what they were in 1976, the equivalent of a tax increase on an average family of four of more than $5,000.

The tragedy lies as much in what Mr. Carter has failed to do as in what he has done.

He has failed to lead.

Mr. Carter had a chance to govern effectively. He had a sound economic base with an inflation rate of 4.8 percent when he took office.

But he has failed. His failure was rooted in his view of government, in his view of the American people.

Yet he wants this dismal view to prevail for four more years.

The time has come for the American people to reclaim their dream. Things don't have to be this way. We can change them. We must change them. Mr. Carter's American tragedy must and can be transcended by the spirit of the American people, working together.

Let's get America working again.

The time is now.

The Flexibility of Our Plans

STRATEGIC NUCLEAR POLICY

By HAROLD BROWN, *U.S. Secretary of Defense*

Delivered at the Convocation Ceremonies for the 97th Naval War College Class, Newport, Rhode Island, August 20, 1980

IT is indeed a pleasure to be here at the Naval War College. Your tour here will be a marvelous opportunity to step back from day-to-day line responsibilities and to give some intense and serious thought to a number of important national security issues.

One of the most critical of these and one currently receiving much public attention is strategic nuclear policy. That is the subject of my remarks today.

Fashioning strategic nuclear policy that will lead us away from nuclear war and not toward it requires dispassionate analysis, balanced judgments and a firm grasp of the complexities of the nuclear age.

The overriding objective of our strategic forces is to deter nuclear war. Deterrence requires stability. To achieve strategic nuclear stability, three requirements must be met:

First, we must have strategic nuclear forces that can absorb a Soviet first strike and still retaliate with devastating effects.

Second, we must meet our security requirements and maintain an overall strategic balance at the lowest and most stable levels made possible by our own force planning and by arms control agreements.

Third, we must have a doctrine and plans for the use of our forces (if they are needed) that make clear to the Soviets the hard reality that, by any course leading to nuclear war, they could never gain an advantage that would outweigh the unacceptable price they would have to pay.

The ability of our forces to survive a surprise attack is the essence of deterrence. Today, our Triad of strategic nuclear forces assures that our deterrent is survivable.

But in the future, Soviet military programs could, at least potentially, threaten the survivability of each component of our strategic forces. For our ICBMs, that potential has been realized, or close to it. The Soviets are now deploying thousands of ICBM warheads accurate enough to threaten our fixed MINUTEMAN silos. For our bombers, the threats are more remote, and for SLBMs, more hypothetical. But, the Soviets are developing, for deployment in the mid-1980s, airborne radars and anti-aircraft missiles to shoot down our penetrating B-52s. And they are searching intensively for systems to detect and destroy our ballistic missile submarines at sea. These Soviet efforts cannot be ignored.

We are responding to these current and future threats by appropriately strengthening our strategic nuclear capabilities across the board. This is necessary because, while we have essential equivalence now, the scale and momentum of Soviet programs during the 1970s, inevitably carrying over into their deployments during the 1980s, require offsetting actions by the United States. Though we made some significant advances, especially in MIRVed warheads, our investment in strategic programs in that decade was less than one-third of what the Soviets spent on their strategic programs. If we had let that trend continue, we would have faced, by the mid-1980s, at best a perception of inferiority, at worst a real possibility of nuclear coercion.

So we are strengthening all three elements of our strategic forces:

—In three-and-one-half years, we have put the TRIDENT missile and submarine program back on track. We have begun to equip our POSEIDON submarines with the new TRIDENT I missile, that increases by ten-fold the ocean areas in which they can patrol and still be within range of their targets. The first TRIDENT submarine, the USS OHIO, will begin sea trials this year and will join the fleet next year. Her sister ship, the USS MICHIGAN, will be launched soon.

—We are taking important steps to maintain a viable and effective bomber force. Early in his term, President Carter concluded that air-launched cruise missiles would be a more effective and more efficient strategic weapon than the B-1. Since that time, U.S. technical developments and intelligence information on advances in Soviet air defenses have strongly confirmed that judgment. Meanwhile, we are continuing to develop the technology and to do design work on a new cruise missile carrier aircraft and a new bomber, should they be needed to cope with the threat of the 1990s and beyond.

—Our most significant force deficiency in the next few years will be the vulnerability of our fixed silo ICBMs. Observers saw this trend coming for many years, but no sound technical solution was found until the MX multiple protective shelter concept was developed and selected in 1979. That program — which we believe Congress and the public will continue to support — is highly important for preserving the long-term strategic balance. The other

elements of our strategic force — each of which will be improving rapidly in the early 1980s — enable us to maintain the balance and a survivable deterrent during this temporary vulnerability of ICBMs. But that is not a situation we want to live with indefinitely. We need to insure against the potential vulnerabilities of the other legs of the Triad, and not allow, for example, a total concentration by the Soviets on their anti-submarine capabilities. Hence the need for MX. The great effort (and considerable cost) that we are willing to expend to ensure MX survivability is evidence that we plan our strategic forces in a retaliatory role. A survivable system is *less* threatening than the vulnerable one it replaces.

Not strictly a part of our strategic forces, but critical to the overall nuclear balance, are theater nuclear forces. Last year, the NATO alliance reached a collective decision — a very difficult decision for some allies — to respond to the large-scale Soviet theater nuclear force buildup. This decision involves a combined program of improved U.S. long-range theater forces — ground-launched cruise missiles and Pershing II — *and* the pursuit of efforts to negotiate with the Soviets equitable and verifiable limits on the theater nuclear forces of both sides. We have also demonstrated our support for a strong allied nuclear capability by the recent agreement to make TRIDENT missiles available for a modernized British nuclear force.

These programs capitalize on U.S. technological strengths — in submarine design and quality, in cruise missile accuracy and miniaturization, and in an effective concept for mobility for land-based missiles. They are solutions for the long-term, not simply stop-gap measures. In strategic forces particularly, we need to put our resources into weapon systems that will serve our needs for the long pull, and not waste effort to produce early but only incomplete and temporary solutions.

Taken together, these programs strengthen deterrence. They provide for increased survivability for our strategic forces, by reducing our vulnerability to Soviet threats. They maintain strategic stability by enhancing our capacity to deter nuclear war.

A second part of our program to achieve strategic stability has been the pursuit of equitable and verifiable strategic arms control agreements, such as the SALT II Treaty. Arms control is not a substitute for vigorous force modernization, but rather complements it, by imposing effective controls on the size and capabilities of Soviet strategic forces. At the same time, it permits us to carry out the programs we need to maintain the strategic balance.

This Administration, like every Presidential Administration since the dawn of the nuclear age, has pursued nuclear arms control — not as a favor to our adversaries or out of any illusions regarding their true character, but as a means of enhancing our own security and the peace of the world. We want arms control agreements with the Soviets, and they with us, *because* we are adversaries; such agreements are not needed between friends. Mutual interest is the driving force, and mutual benefit the necessary criterion, for any arms control agreement between the superpowers.

The SALT II treaty will restrain the buildup of Soviet strategic arms to well below what it would likely be without the SALT II limits — the Soviets will be required to reduce their current strategic nuclear forces by about 10 percent and will be limited in the number of warheads they can deploy.

SALT II will make future Soviet strategic forces more predictable both in numbers and characteristics — thus making our own defense planning easier.

SALT II will prevent an unnecessary, unconstrained, and very expensive strategic arms race with the Soviet Union. This is all the more important when we face a pressing need to put more money into conventional forces — a requirement now even more urgent as a result of the Soviet invasion of Afghanistan.

The Joint Chiefs of Staff continue to consider the limitations imposed in the SALT II Treaty to be in our national security interest.

The Soviet invasion of Afghanistan made it necessary, in practical political terms, to defer SALT II ratification while we assessed the Soviet action and implemented the necessary responses. But ratification of the treaty at the earliest feasible time is still important to our national security interest.

In addition to strategic forces that are technically adequate, we need a policy framework:

—to prescribe what we must do so that deterrence continues to work;

—to guide our procurement strategy for acquisition of strategic nuclear forces and the corresponding command, control, and communications systems; and

—to shape our operational planning for the use of our forces in war, if necessary.

As a complement to our force modernization efforts and our arms control negotiations, for the past three years we have been working intensively to make deterrence more certain and more effective, through better planning and a more cogent statement of our strategic doctrine. In this process, we have taken a number of important analytic and operational steps.

In the summer of 1977, President Carter ordered a fundamental review of our targeting policy. Over the course of the next 18 months, that study was conducted by military and civilian experts taking into account our forces, plans, problems, and capabilities, as well as Soviet perspectives, strengths, and vulnerabilities.

Since my report to the President on that analysis, we have been moving deliberately to implement its basic principles. I outlined the major precepts of this countervailing strategy in my Defense Report in early 1979, and in more detail in January of this year.

At a meeting of the NATO Nuclear Planning Group in June of this year, I briefed our Allies on the conclusions we reached and the actions we are taking. They fully support the need for the United States to have a wide range of strategic nuclear options. Our countervailing strategy is fully consistent with NATO's flexible response and indeed indicates our determination to carry out that Alliance strategy.

President Carter has recently issued an implementing directive — Presidential Directive No. 59 — codifying our restated doctrine, and giving guidance for further evolution in our planning and systems acquisition.

Obviously, the details of our planning must remain a closely guarded secret. Nonetheless, the basic premises of our policy can be stated publicly without compromise to our security. In fact, it is very much in our national interest that

our deterrence policy — and the consequences of aggression — are clearly understood by friend and adversary alike.

At the outset, let me emphasize that P.D. 59 is *not* a new strategic doctrine; it is *not* a radical departure from U.S. strategic policy over the past decade or so. It *is*, in fact, a refinement, a codification of previous statements of our strategic policy. P.D. 59 takes the same essential strategic doctrine, and restates it more clearly, more cogently, in the light of current conditions and current capabilities.

Moreover, one purpose of my own exposition of the subject today, as of my previous statements along these lines, is to make clear to the Soviets the nature of our countervailing strategy. This is to assure that no potential adversary of the United States or its Allies could ever conclude that aggression would be worth the costs that would be incurred. This is true whatever the level of conflict contemplated.

Deterrence remains, as it has been historically, our fundamental strategic objective. But deterrence must restrain a far wider range of threats than just massive attacks on U.S. citites. We seek to deter any adversary from any course of action that could lead to general nuclear war. Our strategic forces also must deter nuclear attacks on smaller sets of targets in the U.S. or on U.S. military forces, and be a wall against nuclear coercion of, or attack on, our friends and allies. And strategic forces, in conjunction with theater nuclear forces, must contribute to deterrence of conventional aggression as well. (I say "contribute" because we recognize that neither nuclear forces nor the cleverest theory for their employment can eliminate the need for us — and our allies — to provide a capable conventional deterrent.)

In our analysis and planning, we are necessarily giving greater attention to how a nuclear war would actually be fought by both sides if deterrence fails. There is no contradiction between this focus on how a war would be fought and what its results would be, *and* our purpose of insuring continued peace through mutual deterrence. Indeed, this focus helps us achieve deterrence and peace, by ensuring that our ability to retaliate is fully credible.

By definition, successful deterrence means, among other things, shaping *Soviet* views of what a war would mean — of what risks and losses aggression would entail. We must have forces, contingency plans, and command and control capabilities that will convince the Soviet leadership that no war and no course of aggression by them that led to use of nuclear weapons — on any scale of attack and at any stage of conflict — could lead to victory, however they may define victory. Firmly convincing them of that fundamental truth is the surest restraint against their being tempted to aggression.

Operationally, our countervailing strategy requires that our plans and capabilities be structured to put more stress on being able to employ strategic nuclear forces selectively, as well as by all-out retaliation in response to massive attacks on the United States. It is our policy — and we have increasingly the means and the detailed plans to carry out this policy — to ensure that the Soviet leadership knows that if they chose some intermediate level of aggression, we could, by selective, large (but still less than maximum) nuclear attacks, exact an unacceptably high price in the things the Soviet leaders appear to value most — political and military control, military force both nuclear and conventional, and the industrial capability to sustain a war. In our planning we have not ignored the problem of ending the war, nor would we ignore it in the event of a war. And, of course, we have, and we will keep, a survivable and enduring capability to attack the full range of targets, including the Soviet economic base, if that is the appropriate response to a Soviet strike.

At the President's direction, the Department of Defense has, since 1977, been working to increase the flexibility of our plans to make use of the inherent capabilities of our forces. We are also acting to improve our ability to maintain effective communications, command and control of our forces, even in the highly uncertain and chaotic conditions that would prevail in a nuclear war. These actions greatly strengthen our deterrent.

This doctrine, as I emphasized earlier, is *not* a new departure. The U.S. has never had a doctrine based simply and solely on reflexive, massive attacks on Soviet citites. Instead, we have always planned both more selectively (options limiting urban-industrial damage) and more comprehensively (a range of military targets). Previous Administrations, going back well into the 1960s, recognized the inadequacy of a strategic doctrine that would give us too narrow a range of options. The fundamental premises of our countervailing strategy are a natural evolution of the conceptual foundations built over the course of a generation, by, for example, Secretaries McNamara and Schlesinger, to name only two of my predecessors who have been most identified with development of our nuclear doctrine.

This Administration does not claim to have discovered the need for broad scale deterrence, or for improved flexibility, or for secure and reliable command and control of our own forces should deterrence fail, or for effective targeting of military forces and their political leadership and military control.

This evolution in our doctrine enhances deterrence, and reduces the likelihood of nuclear war. It does so because — like our nuclear modernization programs — it emphasizes the survivability of our forces and it conveys to the Soviets that any or all of the components of Soviet power can be struck in retaliation, not only their urban-industrial complex.

What we have done in the past three and a half years is to look more closely at our capabilities, our doctrine and our plans in the light of what we know about Soviet forces, doctrine, and plans. The Soviet leadership appears to contemplate at least the possibility of a relatively prolonged exchange if a war comes, and in some circles at least, they seem to take seriously the theoretical possibility of victory in such a war. We cannot afford to ignore these views — even if we think differently, as I do. We need to have, and we do have, a posture — both forces and doctrine — that makes it clear to the Soviets, and to the world, that any notion of victory in nuclear war is unrealistic.

Implementing our strategy requires us to make some changes in our operational planning, such as gradually increasing the scope, variety, and flexibility of options open to us should the Soviets choose aggression. Some of this has already been done since 1977. More needs to be done. We must also improve the survivability and endurance of our command and control.

This is not a first strike strategy. We are talking about what we could and (depending on the nature of a Soviet attack) would do *in response to* a Soviet attack. Nothing in the policy contemplates that nuclear war can be a deliberate

instrument of achieving our national security goals, because it cannot be. But we cannot afford the risk that the Soviet leadership might entertain the illusion that nuclear war could be an option — or its threat a means of coercion — for *them*.

In declaring our ability and our intention to prevent Soviet victory, even in the most dangerous circumstances, we have no illusions about what a nuclear war would mean for mankind. It would be an unimaginable catastrophe.

We are also not unaware of the immense uncertainties involved in any use of nuclear weapons. We know that what might start as a supposedly controlled, limited strike could well — in my view would very likely — escalate to a full-scale nuclear war. Further, we know that even limited nuclear exchanges would involve immense casualties and destruction. But we have always needed choices aside from massive retaliation in response to grave, but still limited provocation. The increase in Soviet strategic capability over the past decade, and our concern that the Soviets may not believe that nuclear war is unwinnable, dictate a U.S. need for more — and more selective — retaliatory options.

The doctrinal and planning measures we are taking — coupled with our force modernization programs — improve the effectiveness of our strategic nuclear forces across the full range of threats. They make clear our understanding that the surest way to avoid a war is to ensure that the Soviet leadership can have no illusions about what such a war would mean for Soviet state power and for Soviet society.

In sum, our strategic policy is a balanced whole — of force modernization, of negotiated limitation, and of cogent and effective deterrence doctrine. We have a single objective — to keep the peace and to reduce the dangers of nuclear war. This is at once a military, a political, and a moral objective. We will continue to pursue an integrated policy of maintaining and modernizing our forces to maintain a proper balance, seeking to stabilize the arms competition, and improving doctrine and planning to deny the Soviets any hope of victory in any nuclear war, however they may define victory and at whatever level a conflict might be fought.

It is essential that our nuclear deterrent policy be understood by the American people, our friends and Allies, and our adversaries as well. That is the purpose of this speech. It is particularly incumbent on professionals such as you to understand and to explain complex, yet critical, national security policies. Indeed, that is one of the most important functions of those of us who, by formulating or executing policy, serve the national security interests of the United States.

Major Issues in National Health Policy

POLICY TO ENCOURAGE PRIMARY RESEARCH

By RITA RICARDO-CAMPBELL, *Senior Fellow, Hoover Institution*

Delivered at Stanford University, Stanford, California, July 23, 1980

TEN percent of the gross national product (GNP) is being spent on health today. Without major policy changes, it is predicted that by 1990 this figure will have risen to 12 percent of GNP, double the 6 percent in 1965. The expansion of total health care costs is shrinking the percentage of GNP available for other purposes which may be of greater importance to the nation.

Although cost containment in the health sector was hotly debated in the 1970s, no effective measures were taken. Indeed, in view of the high rate of inflation, cost containment would have been an impossible task. However, real expenditures on hospitals and physicians, tests and x-rays, new medical technology, and dental care all increased as well. Only expenditures for prescription drugs did not increase in real terms. The increase in the per capita consumption of medical care services indicates that higher quality care in addition to higher prices accounts for some of the rise in costs.

However, data from the 1970s indicate that more medicine does not always mean better health. Extensive charges have been made concerning the over-use of (1) x-rays and tests because some physicians practice defensive medicine to protect against malpractice suits; (2) excess surgery because of an over-supply of surgeons coupled with the usual "fee-for-service" payment; and, (3) artificial measures that prolong the lives of dying patients as a result of extensive, catastrophic medical insurance coverage.

Many people are not aware of the enormous increases in medical costs during the last 20 years because their out-of-pocket payments to medical care providers at the time of consumption have been constant over two decades, at 2.6 percent of GNP. It is the growth in third party payments (including government Medicare and Medicaid programs and private insurers) that supports the expansion in the use of tests and x-rays, and increasingly expensive and sophisticated technology. We are purchasing higher quality care although not in proportion to the rise in cost. For those who may wish lower quality and lower priced care in non-emergency situations, which is the bulk of medical care, a choice rarely exists.

The General Accounting Office (GAO) has over the years made hundreds of recommendations to Congress and to agencies about how health care costs can be contained. Some of their recommendations have been adopted; others have not. In the State of New York alone, $260 million annually (1979 estimate by the GAO) is being spent on hospital care for patients who do not have a medical need for hospital care. Conversion of excess hospital beds into nursing home beds and of obsolete, empty beds in small rural hospitals could help supply the growing need for nursing home beds. This need exists because the population is aging in the U.S. and because married women are working, leaving fewer adults in the home to care for the very elderly and the ill.

The Departments of Defense, Health and Human Services, and the Veterans' Administration provide some direct

delivery of medical care but their programs are uneconomic because they do not share expensive medical technologies, or take advantage of their greater joint purchasing power. Yet, every one percent reduction in the cost of these programs would save taxpayers $100 million annually.

The largest potential savings would result from the elimination of fraud and abuse under Medicare and Medicaid programs, which is estimated to cost $7 billion annually. In May 1980, a high-ranking official of the FBI testified that "corruption has permeated virtually every area of the Medicare/Medicaid health care industry." This is despite 1977 federal legislation and continuing state investigations to eliminate fraud. Although few persons believe that all fraud can be eliminated, improvements in the administration of these programs could cut this figure by about three-fourths.

The 1970s set the stage for increasing competition during the 1980s. The landmark Goldfarb decision by the Supreme Court in 1975 clearly stated that the professions are not exempt from antitrust action. The Federal Trade Commission (FTC) subsequently negotiated a consent decree from the American Medical Association that stated it would cease and desist from discriminating against health professionals who advertise. However, to date physicians have not advertised. Loss of referrals and possible ostracism may be facing physicians who do advertise. However, dentists' fees, contact lens fees, and drug prices have been advertised and prices, in some instances, have fallen.

It is interesting to note that retail firms have entered those areas where advertising is occurring among professional providers. Competition comes from the professionals in eye and dental care who lease space in department stores and in the new dental divisions of Sears Roebuck's stores nationwide. These outlets are probably serving more low income people with dental care than the traditional clinical approach often supported out of government funds.

Competition is increasing among insurers both in premium rates and benefit packages. Under new government legislation, the prepaid group practice plan or health maintenance organizations (HMOs) which act as both insurers and providers are becoming more aggressive. It has been federal policy from the Nixon administration on to encourage the growth of HMOs through federal legislation. An HMO has a fixed per capita charge whether or not an enrollee uses medical care. HMOs thus have an incentive to provide less care and less costly medical care. Enrollees in HMOs use on the average fewer hospital days than those persons using fee-for-service practice. This saves HMOs money but there is little evidence that the savings are passed onto employers who pay the premium, or to consumers. In the San Francisco, Los Angeles, and Seattle areas where about 20 percent of the population are enrolled in HMOs, medical care prices are rising faster than the average nationwide. Despite the GAO's recommendation, Kaiser-Permanente (the prototype) has never been audited.

Less than 5 percent of the population are covered by HMOs. Why? Some answers are that enrollees are usually limited to the more healthy fulltime employees, some HMOs cut corners on quality, HMOs tend to allocate limited resources through waiting costs of their patients, and HMOs have relatively high premiums although more comprehensive benefits.

Government policy proposals include a voucher plan under which the employer would pay the lowest premium amount among the insurance and HMO plans that the employer offers. The employee would then pay a differential for more expensive plans. This would act as a market test of HMOs which are expected to decrease their premium rates. Time will answer whether or not HMOs can enroll a larger percentage of the United States population.

The major influence of business in the 1980s will be through their newly adopted role of the informed customer in purchases of health insurance. Industry is paying three-fourths of all annual health insurance premiums and has begun to bargain effectively on premium rates. Large companies are using the alternatives of self-insurance and direct provision of medical care as leverage. Corporations are banding together, as in the Washington Business Group, to encourage hospitals to be more efficient: have joint purchasing plans with other hospitals, plan cash flow, intensify their utilization review of the number of hospital days, and use the best means to finance needed expansion and equipment.

Insurance premiums reflect health costs. The Ford Motor Company and many others pay $2300 in annual health insurance premiums per employee. General Motors, Citicorp, and other companies train interested middle management to become better members of local health systems, planning agencies, trustees of hospitals, and members of insurance company boards. There has also been a surge in company sponsored exercise and health education programs.

About 86 percent of the population has catastrophic health expense coverage. This includes those under Medicare and Medicaid, as well as those under the private, comprehensive prepaid plans (about 8 million people) and the larger number (about 147 million) under private major medical insurance plans.

Only 15 to 18 million, or about 8 percent, of the estimated 232 million population have no health expense coverage. Who are the people without health expense coverage? Fifty-five percent are persons who are not in the labor force and many of these are dependents of covered workers who waived dependency coverage, probably because their employers do not pay premiums for dependents. Others without coverage but in the labor force are unemployed and their health insurance coverage has run out. Nongroup coverage has high premiums because of adverse self-selection; that is, the less healthy individual is more likely to purchase individual coverage.

Most persons obtain group health insurance coverage through their employment. Employed persons who are not insured are primarily migrant, rural workers, part-time and intermittent workers in retail trade, personal services, and construction. In addition, many of the self-employed are unwilling to pay the high individual premium rates (high as compared with the low group premium rates) for health insurance coverage. Additionally, some very small businesses do not provide coverage for their employees because they also would have relatively high premium rates. Although competition is increasing, it cannot increase rapidly enough to diminish regulation during the next few years. Regulation in the health sector costs billions of dollars annually. Some regulation probably will always exist. Examples are standards of safety for drugs, purity of foods, and licensure of physicians. Because no drug is "safe" if it confers a benefit and few foods are completely free of contaminants whether artificial or natural, the public needs information about

relative benefits and risks. Standards of risks can be tailored to anticipated benefits. A person with terminal cancer is willing to accept great risk.

In respect to licensure, many of the nonprofessional occupations could, with cost-savings, become certified not licensed occupations. It is difficult to imagine, however, the various physicians' associations agreeing to nonlicensure of physicians. As long as physicians are licensed, they have a responsibility to "clean their own house." This they have not been doing.

Can we expect national health insurance? The answer is no. At least not rationally, and not until the tremendous amount of abuse and fraud among providers as well as beneficiaries is eliminated.

Price no longer allocates hospital care (94 percent of the bill is paid by third parties) and price allocates only to a degree physician care. The tax system encourages the growth of private insurance because employers can expense health insurance premiums as part of labor costs and employees do not have to pay any tax on these premiums, so that premium dollars are worth more than wage dollars. It is unlikely that this will change although there are some legislative bills in the hopper to do this.

The more likely paths to contain costs are: (1) encourage competition by use and direct reimbursement of lesser-trained professionals; (2) provide information about prices and quality of providers; (3) continue to encourage business to be active in cost containment, especially by hospitals; and, (4) promote health education and self-care. Inefficient hospitals with low-occupancy rates should be allowed to go out of business.

Government policy should encourage primary research which is needed to understand the causes of disease. New therapeutic drugs that treat disease are often cost-effective but even more cost-effective would be prevention of disease.

Government, through redirection of their grants, increasing training stipends to equal intern salaries, and taking a less adversarial position toward pharmaceutical and medical device firms, could encourage research for new drugs and technology that will prevent and cure disease rather than for new maintenance drugs and support technology. A drop in health research expense is primarily offset by an anticipated growth in percentage share of hospitals. This is shortsighted planning.

Is There a Gaming Industry

THE TRUTH AND THE CONSEQUENCES

By WILLIAM H. McELNEA, JR., *President, Caesars World, Inc.*

Delivered at Town Hall of California, Los Angeles, California, July 29, 1980

THANK YOU VERY MUCH. It is — if you will forgive my saying so — both a pleasure and a burden to be a speaker at this well-known forum. The pleasure, I'm sure, has been well expressed by the many speakers who have preceded me on this platform over the years. The burden, however, is a personal idiosyncracy. It's the responsibility I feel to say something you have not heard before. After all, you are a captive audience.

Fortunately, my subject matter helps because, while it is part of the business scene, it is new enough to present some very challenging questions that need to be resolved.

This business I'm referring to is the gaming industry.

I'm not talking about gambling — which has been around for a long, long time. The gaming industry, on the other hand, dates back only as far as the end of World War II. As for the further refinement into very large resort casino complexes, that's a concept that's not more than perhaps 10 years old.

This distinction is not simply a speaker's ploy to get the attention of his audience. Gambling and gaming are significantly different in nature — and confusion between the two leads to poor economic decisions, both public and private, and poor social policy.

In the thousands of years that have passed since the ancient Greeks tossed knucklebones marked with dots, attitudes toward gambling have developed and have solidified. Because of obvious similarities between gambling and gaming, those attitudes, not surprisingly, have been transferred to the gaming industry and to the people it serves. Yet the two activities are indeed different.

A number of phrases come to mind to capture the essence of that difference:

—*Gambling* has a narrow focus, whereas *Gaming* is part of a whole package of leisure and recreational activities — good cuisine, entertainment, sports, elegant surroundings, plus the actual gambling itself.

—Those who seek the *gaming* experience do so with discretionary income; they are people who already have money. Many who *gamble* do it to make money and probably should not be doing so.

—*Gambling* can be done almost anywhere, and is — including private homes. *Gaming* takes place in carefully created surroundings.

—Almost anyone can go into the *Gambling* business, and the failure rate is high. The gaming business takes large financing, sharp management skills and a flair for the creative, and the failure rate runs just about like that of any other industry which is fairly new and where skills are not always understood.

Let me describe our product by telling you — even briefly — what you might expect if you spent a weekend at Caesars Palace.

First of all, because of our marketing efforts around the world, you would note that our guests display an exotic mix of races, cultures, dress, mannerisms and language. In fact, our employees, in an effort to make our foreign guests feel at home, wear buttons announcing which languages they speak.

At the baccarat table, on a good night, a scrap dealer from Detroit might be playing against a shipbuilder from

Hong Kong, a mine owner from Bolivia and a prince from Saudi Arabia — all of which creates the kind of action and excitement that is unmatched anywhere in the world. (As a matter of fact, a fair number of oil sheiks, coming as they do from an ethnic background that looks kindly on gambling, are frequent guests at Caesars Palace. We like to think as we welcome these high rollers, that we are making our contribution to recycling petrodollars.)

Our guests come to buy entertainment, and we spend considerable sums of money to provide it. Rooms are lavishly decorated — chiffon curtains around the bed, Roman bath in the bedroom, not the bath, theme restaurants to provide the unusual atmosphere.

The entertainers at Caesars Palace are stars — Frank Sinatra, Sammy Davis, Jr., Diana Ross. It costs about $30 million a year to bring stars of this caliber to our resort casinos for the pleasure of our customers. Without the gaming revenues, we could never afford to do this.

Clearly, all this is quite different from someone in a slouch hat putting two bucks on a horse.

Differences between the two are further confirmed by the 1974 survey done as part of the National Gambling Commission's study called "Gambling in America." The most frequent reason given for gambling at a casino was to have a good time. A significant number of respondents also cited the opportunity to make money, but only a very small number — 7 percent — cited the chance to get rich as a reason for that gambling. Casino patrons are much too sophisticated not to know that 20 percent of every dollar bet remains with the house. Nobody in his right mind thinks that $300 million buildings are constructed by companies who lose money.

I know a young man — in his early 30's — upwardly mobile — making a professional's salary — who saves $500 to go to Las Vegas with his wife for the weekend. When asked why he goes to Las Vegas, he says "to gamble." But when you pursue it further, you learn that his budget doesn't bear-out that purpose precisely. Out of the $500, only $100 goes toward bets of one kind or another. The other $400 is spent on the hotel, gourmet dining and entertainment. He chooses the best — Caesars Palace — so the atmosphere is very important to him. In fact, the truth finally comes out in these words: "I guess I don't go just to gamble — but if there were no gambling, I wouldn't go."

Those words capture the essence of the gaming experience. Gambling is essential to it. Gambling gives the special excitement. But it's not the whole story — far from it. Without the rest — the food, the luxury, the entertainment — there would be no gaming experience — just chips on the table.

For many people, it comes as quite a surprise to know that the product sold by the gaming industry is very distinctive. As you can well imagine, therefore, the knowledge about the industry that delivers this product must be even skimpier.

The genesis of the gaming industry is in the hotel/resort/entertainment business. Ours is a fast-growing industry with some well-known names: Hilton, MGM, Holiday Inns, and of course Caesars World, whose gaming revenues are significantly larger than any of its competitors, more than $350 million per year, and total revenues over a half billion dollars.

Caesars World is listed on the New York Stock Exchange as befits a national company. I realize that here in California the principal association you have with my company is Caesars Palace in Las Vegas. But we have other resort casinos — in Atlantic City and Lake Tahoe, as well as three honeymoon resorts in the Poconos.

While we seek to attract affluent gamblers to our resorts, we're not gamblers ourselves — other than in the normal sense of accepting business and competitive risks.

The management skills required in the gaming industry are numerous — indeed, we are a conglomerate business. We're not talking about a crap game; the stakes are way too large these days. Consider that at a plant like Caesars Palace, we are managing a quarter-billion dollar asset that's composed of a luxury hotel, a casino, an "omnimax" theatre, an entertainment showroom and a sports pavilion. Those all could be separate business entities in their own right.

At our Caesars Boardwalk Regency in Atlantic City, we're dealing with a capital investment of well over $100 million dollars. Our shareholders expect us to generate a competitive return on that investment. At these numbers, we're not depending on lady luck. Moreover, we have to be efficient to justify the cost of the capital we employ for expansions — not every concern can borrow at today's prevailing rates, and make it pay off.

At its core, gaming itself is a money-handling business. We have to attract our patrons' money, we have to win it, protect it, process it, and finally report it. Millions of dollars flow through our cages each month, which we track with an accuracy that often surpasses a bank's. Last Christmas and New Years week we processed $155 million through the cages of Caesars Palace, and we accounted for all but a $1,767 shortage.

We also extend credit, much as a consumer retailer does. So we need an exacting data-processing ability and management judgment to control and regulate accounts receivable.

Caesars' controls are totally automated. We have a computer in place that can report results as minute as play on a single table, on a single shift. It can also give us the total casino results for a day. An advanced management information system has been developed over the past decade to meet our increasing needs for financial controls as well as to support sophisticated consumer marketing.

Actually, we own our own computer company — it has four plants — and in addition to using its products in our own operations, we have sold our hotel systems to other competitors.

Almost ten years ago, Caesars World began recruiting people from the ranks of the top law enforcement agencies, such as the FBI, to oversee our security efforts. Today, our surveillance techniques — from on-floor, first-hand supervision to electronic monitoring — are sophisticated and constantly improving. The criminal aura that popular opinion attaches to the casino has little basis in fact in the modern gaming industry. The security controls at a publicly held company like ours are a huge disincentive to potential crime. Our law enforcement experts know the ropes. In fact, a number of ex-FBI men hold security positions within the industry today. Believe me, for the criminal, professional or otherwise, there are far better places to be than in a resort/casino.

Still another characteristic distinguishes a large resort/casino operation like Caesars World: emphasis on

depth of management. This is the key to earning investor confidence in the future of our product. You must be competent and credible — because you're competing with every other industry for limited supplies of capital. Because our management is respected, we were able to attract a $60 million loan from the Aetna Life Insurance Company in 1978 — the first time a major institutional investor has put money into the gaming industry. We have more than $40 million of unsecured lines of credit made available to us by the major banks from coast to coast. In the past 18 months, three public bond issues and one common stock offering have been arranged with nationwide underwriting syndicates headed by E.F. Hutton & Company.

Finally, we count on skilled marketing to bring into our resorts the type of customers who can lose money gracefully and keep coming back because they appreciate what we have to offer.

In this regard, Caesars World made an important, conscious decision to sell a premium package. We purposely carved out for ourselves the top of the market. Our rooms sell at the highest rates. Our food and beverage are priced at the very top of the scale. We wish to — and in fact do — attract people in the high-income brackets.

Having made this decision, many other business decisions follow logically — star entertainment, an international marketing effort seeking out wealthy customers wherever they might be: in Mexico, South America, the Far East, the Middle East — knowing that for such people distance is no deterrent. What they are interested in is what's there when they get to Tahoe or Las Vegas, or Atlantic City.

All these characteristics I've described both in the product we sell and the business structure that sells it are not common knowledge. But then, information about most industries is not very widespread. The problem is not the *lack* of information, but the *mis*information. The failure to distinguish us from pure gambling means that we in the gaming industry live every day with the reputation that others have made for us. We are constantly up against such views as:

—Gambling is a psychological aberration.

—If it's immoral, then it's taxable. (We share that lovely niche with smoking, liquor and the legitimate theater.)

—Gambling is irresponsible and can cause severe family problems.

—Gambling is an invitation to crime.

—And so forth and so on.

You would never think from this litany of evils that there could ever be a Caesars World whose president came from the world of finance, and whose personnel roles contain ex-members of the FBI, gaming commissioners, bright young graduates of the nation's finest Schools of Business Administration and former Army generals, and whose board of directors consists of highly qualified and dignified men of high reputation in areas pertinent to the experience of our business — half of them from outside the Company. For instance, James A. Needham, a former SEC Commissioner and NYSE Chairman, chairs one of our audit committees of the Board. We have Harold Berkowitz, a prominent entertainment attorney, Peter Schweitzer, former vice chairman of Kimberly-Clark, and Manuel Yellen, former chairman and CEO of P. Lorillard & Co., a large tobacco products company.

None of what I'm saying is meant to be interpreted as implying there is no such thing as a gambling problem. It's complex. It has psychological and social ramifications. I have some ideas on the subject — but that's not really in my bailiwick to solve. All we ask is to be differentiated from it.

Even the gaming industry, as a large taxpayer and a large employer, doesn't cut too much ice with either legislators or certain segments of the general public when it comes to the question of opening up states other than Nevada or New Jersey to casino gambling. That's why in a recent interview when I was asked whether gaming would come soon to California, I said I didn't see any real evidence for such an eventuality.

California is a fiscally healthy state with an expanding economy. There *is* a statistical unemployment problem, but practically, in a state that has to import Mexican labor to get its agricultural chores done at a reasonable wage, the appeal *we* might take that our industry is able to absorb rather large numbers of hardcore unemployables falls on deaf ears. California just isn't hurting enough for it to lose the conventional prejudice against the gaming industry. In other words, it doesn't make political sense for public figures to stress the contributions our industry might make to the California economy.

In the practical world, it is principally back East in single-industry cities that are in economic trouble where you'll find the greatest receptivity.

We are not pressing to go where we're not wanted. But we do need better understanding both to stave off unhealthy political and social trends and to foster the best aspects of the gaming industry.

To illustrate what I'm saying, when New Jersey opened up its state to legalized gambling, it was as a partial solution to its economic problems. Then, to further justify its action in the eyes of its potential detractors, it earmarked the taxes from the industry for programs for the elderly. Today we are looking at an incredible success story.

Three hotels employ 13,000 people, compared to 1,500 two years earlier. Employment in casino and casino-related jobs has followed our contention that no other business creates more jobs per each dollar of invested capital than the gaming industry — and most of them at the low end of the educational and skill scale which is where hard-core unemployment has been most difficult to solve.

The approximate dollars that will be paid in taxes by our New Jersey subsidiary alone, this year, will reach meaningful proportions: $22 million to the aged and infirm; $16 million in federal and state income taxes; $6 million in licensing costs. A grand total of $45-50 million from just one casino/hotel in just one year.

The economy in Atlantic City is booming. In the second year of legalized gambling, the number of visitors will exceed the number that will go to Las Vegas — 12½ million in a single year. Legalized gambling has been responsible for a very successful social experiment.

I cannot help but recall that in 1977 while New Jersey was trying to decide which way to go, a popular bumper sticker appeared. It said, "If the referendum doesn't pass, will the last person off the island please turn out the lights."

Well, the lights are still on — brighter than ever.

Other cities, seeing what has happened in Atlantic City, may well open up their doors to us. But we went to Atlantic City because it is off the beaten path. It takes a conscious effort to get there. That's how we like it. We prefer to take our industry away from the big centers, to isolate it, to confine it

to those who can afford to lose money, to patrol it. We don't invite people to walk off the street and gamble away their welfare checks. Large urban centers are not for us.

Now mind you, you'd think that this marketing policy to appeal to wealthy people would be consonant with social policy. But all too often, political and social considerations as a guide to manipulating the marketplace tend to make for poor economic decisions without necessarily achieving the stated social goals.

Our business is grounded in the work ethic; we do not encourage gambling as an alternative to work. We appeal to people who have been successful through that ethic.

But in point of fact, our approach goes counter to today's egalitarian trend. That trend holds that poor people have as much right to gamble as rich and therefore low-bet tables must be provided. The accompanying thought, not surprisingly, then becomes: If gambling is widespread, then the government must step in and supervise it.

The first form of control, as you might imagine, is through taxation. New Jersey comes very close to killing the goose that lays the golden egg. It has gone way beyond Nevada's gaming tax of 5.5 percent, first by levying an 8 percent tax and now moving it to 12 percent. It also has increased the corporate income tax and raised the license fee structure on machine games.

But any state that wishes to keep the gaming resort complexes as a permanent source of income must adopt reasonable taxation and regulation policies — not oppressive ones.

In the almost 50 years since gambling in Nevada was legalized, the state's role has evolved from simple tax collection into a sophisticated regulatory system covering every facet of the gaming industry. Nevada has carefully avoided too much regulation which could destroy the industry, and too little regulation, which could invite abuse. The system works well. We approve of it.

There are moves afoot, however, which are unreasonable.

I refer, for example, to the threat of withholding taxes on winnings. There *are* no gaming winnings — only short-term winners. The house is the only sure winner, so taxation should be confined to corporate gaming revenues or total corporate income. Casinos just cannot be tax collectors.

Nor should the overseeing bodies interfere with normal business decisions; types of machines to buy or the number of people to have on the floor. Management should be allowed to make management changes and transfers without an unnecessarily long approval process. The regulators should restrain their ardor and let the industry shake out the incompetents.

The casino/resort has to be run properly to be successful. The unscrupulous people who started off in the business and thought that making a portion of the casino revenues disappear from the official count through "skimming" learned the hard way. Because they didn't reinvest those profits to maintain the hotels, the resorts deteriorated. To maintain success year after year, to grow and to expand into other markets takes financial controls, financial planning and all the techniques used by establishment businesses to succeed in open competition.

The report "Gambling in America" puts it another way: In reporting on the effort to eradicate both the fact as well as the appearance of wrongdoing, the report says, "The presence of large public corporations in Nevada gaming is one measure of that success." That sentence goes along with another, "This combination of State, Federal and Local oversight make Nevada gaming the most closely scrutinized private industry in the country."

With or without that scrutiny Caesars World would behave precisely as it does. We have carved out a segment of the industry that satisfies a particular social viewpoint as well as our business objectives. Frankly, we do not want people to gamble away their paychecks. We cannot afford the luxury of criminal elements in our midst. We need our financial controls. All that makes good sense to us, both from a business and an ethical point of view.

And we'd like everyone to know that.

In fact, we invite further scrutiny — but this time, not from the government but from you our colleagues in the business community. We want you to understand this newcomer to the entertainment sector. As businessmen, we all have much in common irrespective of the differences that pertain to running any particular company. You, better than anyone else, understand the difference between embarking on a $200 million project of building a hotel/casino resort from scratch compared to buying 20 new slot machines. You know what it means to raise money among institutional investors. You know what the competition is for the top graduates of our best schools of business administration.

This understanding will eventually spread. Of that I'm very confident.

Our paths will cross I'm sure. You may be our bankers or our insurance company or our suppliers; investors in our stock or guests at our resorts; business neighbors in Nevada or New Jersey.

And when we do meet, I'd like to think that this encounter today marked the beginning of that new understanding.

The Philadelphia Story

WHAT WORKS IN READING?

By SAMUEL L. BLUMENFELD, *Author*

Delivered at the 19th Annual Reading Reform Foundation Conference, Champaign, Illinois, August 11, 1980

EVERY so often the work of the Reading Reform Foundation is vindicated by independent researchers who hardly know that we exist. To me, this is all well and good, for it indicates that the teaching principle we advocate — intensive phonics in beginning reading instruction — is discoverable by others. It indicates that our stand is on the side of truth and that prejudice plays no part in our advocacy. We are against the look-say method not because we don't like its advocates, or resent their commercial success, or oppose primers crammed with gorgeous pic-

tures. We are against look-say because it produces crippled readers.

When Prof. Jeanne Chall's book, *Teaching to Read: The Great Debate,* was published in 1967, we hailed it as a significant vindication of our position. It said, in effect, that phonics in beginning reading instruction made better readers than look-say. Dr. Chall had come to that conclusion independently after studying virtually all of the available research on beginning reading instruction. But her colleagues in the International Reading Association — the citadel of look-say — took a dim view of her findings. The reviewer in the *Journal of Reading* wrote:

> What prevents Chall's study from achieving respectability is that many of her conclusions are derived from a consideration of studies that were ill-conceived, incomplete and lacking in the essentials of suitable methodological criteria. In her eagerness to clarify these studies she allowed her personal bias toward a code emphasis to color her interpretations of the data. . . .
>
> It seems rather odd that a researcher intent upon dispelling confusion should have allowed herself to be moored on a reef of inconclusiveness and insubstantiality.

So the Chall book, as much as it pleased us — which its author never intended to do, by the way — did not please the powers that be, and the result is that the reading problem in 1980 seems to be about as bad as it was in 1967. Some think it's worse.

Which brings us to the Philadelphia story. The remarkable thing about the study done in the Philadelphia school district is that it was conceived and conducted by people who had no axes to grind, no connections with any published reading programs, no links with professional lobbies, no stake in the Great Debate, no prejudices, and none of the bias that Prof. Chall was accused of having. If ever there was a group of researchers free of every possible taint, interested only in getting at the truth, this one was it.

Let me give you some background. In 1975 the Federal Reserve Bank of Philadelphia published a critical study of the Philadelphia school system with recommendations designed to improve that system's educational effectiveness and cost efficiency. There were too many young people — especially among the minorities — coming out of the system without employable skills. The Bank wanted to find out what had to be done to improve the system's performance. The study, which took 28 months to complete, included an examination of school labor unions by the University of Pennsylvania Wharton School, a study of citizen reactions to public education conducted by Temple University, and a study of school finances conducted by the Pennsylvania Economy League.

The final report concluded that there had to be a change in the governance of the public school system if there was to be a drastic improvement in the education results. The public school system had to be insulated from the city government political influences in so far as the education aspects were concerned. Naturally, these recommendations caused a great hue and cry among the administrators, teachers' unions, and politicos. And, as you might expect, the recommendations were flatly rejected.

In October 1975, the Superintendent of Schools and the President of the Federal Reserve Bank were invited by the deputy major of Philadelphia to discuss how they might reconcile their differences of opinion. The School District suggested that a new study be conducted utilizing the sophisticated statistical techniques that the Bank had used in its own study, but applying them to the District's primary educational concern: the reading problem. By collaborating on investigating an important academic problem, the Bank and the school system might be able to make some real improvements.

And that's how the Office of Research and Evaluation of the School District of Philadelphia got together with that city's Federal Reserve Bank to produce this very remarkable study entitled *What Works in Reading?* Key staff members from both the Federal Reserve Bank and the School District met in a series of half-day work sessions to plan the study. At the outset the tone was cordial but guarded, and the meetings were negotiating sessions as much as planning meetings.

The reasons for the earlier disagreement between the two sides quickly became evident. The nature of various school variables had to be clarified. In addition, differences in statistical terminology were a barrier. At one point, a staff member familiar with both multiple regression analysis and analysis of variance was brought in to "translate" the terms and concepts used.

As the work sessions progressed, they brought with them a heightened awareness of each other's world. Eventually a genuine mutual respect developed, which became the *sine qua non* for the implementation of this study.

Now, why do I burden you with this technical background? Why is it so important? Because it's essential to point out that the most advanced statistical techniques developed by economists were used in this study. These techniques have been designed to eliminate bias and error from such studies so that practical recommendations can be made based on objective results. Remember, Chall was severely criticized for evaluating studies that were "ill-conceived, incomplete and lacking in the essentials of suitable methodological criteria." This study could hardly be criticized in those terms.

Now to the study itself. Its purpose was to find out why some schools produced better readers than others, and why some students performed better than others. This meant examining the characteristics of students and schools that did best, worst and average. In all, 25 out of a total of 287 schools took part in the study — ten schools with the highest average reading scores in grades 1-4, ten schools with the lowest, and five schools in the middle.

All fourth graders in these schools — 1,828 pupils — became subjects in the study. Fourth graders were selected because the fourth grade is an important point at which to identify trouble: a sharp decline in test scores at this grade has been observed over a number of years. Also, it is the highest grade that permitted all elementary school pupils in Philadelphia to be potential subjects because of the way that city organizes its grade configurations. A total of 162 facts (or variables) about each of the 1,828 pupils made up the computer file on which the study was based. Later, various combinations of these separate items of information increased the total number of variables about each pupil to 245.

Five kinds of facts about each pupil were gathered:

1. Facts about the principal of the pupil's school.
2. Facts about the reading teacher in the pupil's school.
3. Facts about the pupil's classroom teacher.
4. Facts about the pupil's school.
5. Facts about the individual pupil.

In sum, an enormous amount of information was gathered on 25 schools, 25 principals, 25 reading teachers, 94 classroom teachers, 68 reading aides, and 1,828 fourth graders.

Now we come to the part of the report that is of greatest interest to us, and I shall quote the text verbatim:

> Since the study was primarily concerned with successful practices in reading, among the most critical variables were reading approaches and programs. Approaches were included as variables in each regression run. The approaches are Specific Skills, Traditional Basal, Linguistic Basal, and Linguistic Programmed. These approaches represent all 12 commercial programs used in the 94 fourth grade classrooms included in the study.

The report then defines what it means by each of these approaches. Again, I quote the report:

> 1. The Specific Skills Approach involves different sets of recommended materials at varied skill levels, tailored to the student's needs. Materials cover the areas of decoding, study skills, comprehension, and literature. Various publisher and teacher-made programs are used in an effort to supplement basic reading instruction in the classroom.

Incidentally, out of the total 1,828 pupils, only 140, or 7.66 percent, were in a Specific Skills program. The program, as described, strikes me as a sort of Smorgasbord or remedial approach. The report continues:

> 2. The Traditional Basal Approach utilizes a graded series of "readers" as its basic component, with many supplementary materials. Beginning with the development of a sight vocabulary, basals generally feature controlled vocabulary and skills with emphasis on comprehension. Basals are usually identified by the name of the publisher.

In other words, the Traditional Basal is your regular look-say program. How many of the 1,828 were in look-say programs? In all, 1,124 or 61.49 percent. No wonder they've got a reading problem in Philadelphia. The Traditional Basal programs being used are Bank Street, Ginn, Harcourt Brace, Scott Foresman, Houghton Mifflin, McCormack, American Book, and — listen to this — Open Court. Why Open Court was included in this category will be explained later. Back to the report:

> 3. The Linguistic Basal Approach utilizes a graded series of "readers" as its basic component. The emphasis is jointly on phonics and comprehension. In these series, words are presented in groups based on sound-symbol relationships. Short vowels are usually presented first.

Only 175 pupils, or 9.57 of the total, were being taught by way of a Linguistic Basal — or phonics — approach. The Technical Supplement identifies the program as Lippincott.

The fourth category is defined as follows:

> 4. The Linguistic Programmed Approach is basically a linguistic approach with a strong decoding emphasis. The presentation of materials is in small steps (frames). A response is required from the learner and immediate feedback is provided. Comprehension materials are used in conjunction with the program.

Apparently this is an approach that does not use basal story books. We are told that 389 pupils were being taught by this approach, or 21.28 percent of the fourth graders. The two programs being used are the BRL Sullivan and the McGraw Hill-Sullivan.

Now you probably want to know which system worked best, which approach produced the best readers. And here is what the report says:

> *Pupils being taught using the linguistic basal approach achieved distinctly better than pupils using other reading approaches.*

In other words, the Lippincott program produced the best readers. Now I asked someone connected with the report why Open Court was lumped in with the other look-say basal programs. He told me that the approach designations were made by a reading expert at Temple University, and my guess is that the reading expert decided that Open Court could not be classified with the Linguistic Basal Approach because it begins by teaching some long vowel sounds. The linguistic approach invariably starts with the short vowels because they are the most regular. But actually, Open Court is as much a phonics program as is Lippincott, and the linguistics classification is quite arbitrary.

All of this is quite confusing to a lot of people, but I doubt that the professors of education care one way or another. Semantic confusion permits an awful lot of educational malpractice to pass for pedagogic innovation. Twenty years ago, before the linguists got into the act, there were basically only two clearly recognizable approaches: phonics or look-say. In look-say, children started off by learning a sight vocabulary. They learned whole words without knowing what the individual letters stood for. In phonics, children started by learning the alphabet and the sounds the letters stood for. There wasn't too much concern over whether you began with long or short vowels. Some people think it's easier to start with the short vowels, but Prof. Chall, in her book, made it plain that while she found the phonics approach superior to look-say, she found no evidence that one phonics program is better than another. Let me quote Chall directly:

> I cannot emphasize too strongly that the evidence does not endorse any one code-emphasis method over another. There is no evidence to date that ITA is better than a linguistic approach, that a linguistic approach is better than a systematic-phonics approach, or that a systematic-phonics approach is better than ITA or a linguistic approach. Neither do we have any evidence to date that one published code-emphasis program is superior to another, although some undoubtedly are.

Incidentally, "code-emphasis" is a linguistics euphemism for phonics. The linguists have reservations about phonics because they object to teaching the isolated, irreducible sounds of the language as represented by the letters. Since the child does not hear these sounds in everyday speech, they don't think he or she should be taught them. But they agree with us that written English is a sound-symbol system and not one of hieroglyphics. So how do they teach the sounds? By using one syllable whole words in regular spelling patterns.

To me the linguists' objection to phonics is silly. They miss the whole point about phonics. In teaching the letter sounds we are also teaching the concept of the alphabet — which is based on a very great discovery: that all of language is composed of a very small number of irreducible speech sounds. You'd be surprised how exciting it is for a child to learn that English has only 44 sounds in it. Most children taught to read by look-say think that English is composed of thousands of sounds. They have no idea what the alphabet is or of the great discovery behind it. In all of my teaching and tutoring, I have found no child who could not grasp the concept of the alphabet once it was clearly explained and demonstrated.

Incidentally, while the Philadelphia report cites Lippincott — or the Linguistic Basal Approach — as the most effective, it does not tell us the order of effectiveness of the others. But I was told over the phone that after Lippincott came the Linguistic Programmed Approach, which was then followed by the traditional look-say basals. The least effective was the Specific Skills Approach. As for the look-say basals, the data showed no essential difference in effectiveness among them. In other words, Ginn is no better than Scott Foresman or Houghton Mifflin.

Now the Philadelphia report came out with another interesting finding that sort of puzzles me. The report says:

> The linguistic basal reading approach was more beneficial to middle and higher achieving pupils than other reading approaches, but the reading approach utilized did not make any difference for the lowest achieving pupils.

I would want to know more about these low achievers before deciding that it really doesn't matter whether or not you use phonics or look-say with them. Why are they low achievers? Is it a matter of intelligence, or have some of them become low achievers because of their exposure to look-say? We know that many youngsters of normal intelligence are turned off by look-say and become disabled readers as early as the first grade. I wonder to what extent the investigators were aware of this. They were testing fourth graders. What were these kids like in the first grade? Were they taught by the same approaches in the first grade as in the fourth?

The report also lists other things that made a difference in reading growth. Here are some of them:

1. The better the pupil's attendance, the more the reading score increased.
2. Pupils who attended kindergarten seemed to gain more than those who did not.
3. Where the school's principal had experience in the field of reading, the pupils achieved better.
4. Where teachers had more pay periods without absences, the pupils did better.
5. The more minutes a week of sustained silent reading, the better the pupils achieved.
6. Pupils in larger classes (up to 35) gained more than those in smaller classes (as few as 24).

There were things that did *not* make a difference in pupil achievement. For example:

1. The number of times a pupil moved since starting school.
2. Being bussed to relieve overcrowding.
3. Whether or not the principal had a doctorate.
4. Whether the pupil came from a lower or higher income neighborhood.
5. Whether the school had more or fewer pupils from lower income families.
6. The race of the teacher.
7. The number of graduate courses in reading and language arts taken by the teacher.

But no finding is more important than the one relating to instruction approach.

The report leaves no doubt that phonics is better than look-say. It states:

> Most interesting of all, the Linguistic Basal approach produces better fourth grade reading growth for students at or above grade level than any of the three other approaches used in the Philadelphia School District — Specific Skills, Traditional Basal, or Programmed Linguistic. *Probably no finding in the study was more robust.* Many, many alternative specifications were examined — Linguistic Basal was always associated with higher rates of learning.

Incidentally, the report itself does not identify the commercial programs. That information is supplied in the Technical Supplement. I would have never known that Open Court had been thrown in with the look-say basals had I not read the Technical Supplement. It is easy to misinterpret data if one reads the report only. For example, *Education USA,* an independent weekly newspaper put out by the National School Public Relations Association, told its readers about the Philadelphia finding in these words:

> The linguistic basal approach to reading, a combination of phonics and the old "Dick and Jane" basal approach, is "head and shoulders" ahead of any other method of reading instruction in terms of achievement growth for pupils.

That kind of reporting is bound to confuse a lot of people. But I suppose it's too much to expect most people to be aware of the semantic traps in this business. I remember when I was writing *The New Illiterates* it took me quite a while to sort out the terminology, jargon, and professionalese being used in the reading instruction field. I could give a speech on that subject alone.

As I said, back in the days of *Why Johnny Can't Read,* it was phonics versus look-say. But the look-say people never liked such clear, understandable terms, terms that parents could understand. So phonics became the "synthetic method," while look-say was called the "natural approach." Then the linguists arrived with their phonemes, graphemes, morphemes, coding and decoding. And look-say became "reading-for-meaning," as if phonics meant reading not for meaning. On the whole the look-say people liked the new terminology because it turned The Great Debate into the Tower of Babel.

And now we're in a new phase called "psycholinguistics," and you really have to keep up with the research literature to know what the opposition is up to. That phase was inaugurated by Kenneth S. Goodman in his article in the *Journal of the Reading Specialist* of May 1967, entitled "Reading: A Psycholinguistic Guessing Game." Goodman, in case you don't know, is the professor of education at the University of Arizona's school of education, who thinks it's perfectly fine if a youngster reads *pony* for *horse* or vice versa because he's reading for meaning — as if there were no

difference between a pony and a horse aside from how the two words are spelled. Goodman also happens to be one of the chief editors of the Scott Foresman basal reading program. So he has a vested interest in a commercial look-say program.

Incidentally, of the 1,828 pupils involved in the Philadelphia study, 272 or 14.88 percent of them were using Scott Foresman. Only 175, or 9.57 percent were using Lippincott, which suggests that there may be something wrong with the way textbooks are selected by school systems. That Goodman article, by the way, was published just four years after the Lippincott program had come on the market. Chall had given the Lippincott program high marks in her study. So Goodman's article was a means of attacking the competition. He wrote:

> The teacher's manual of the Lippincott *Basic Reading* incorporates a letter by letter varians in the justification of its reading approach. "In short, following this program the child learns from the beginning to see words exactly as the most skillful readers see them . . . as whole images of complete words with all their letters."
>
> In place of this misconception, I offer this. "Reading is a selective process. It involves partial use of available language cues selected from perceptual input on the basis of the reader's expectation. As this partial information is processed, tentative decisions are made to be confirmed, rejected or refined as reading progresses."
>
> More simply stated, reading is a psycholinguistic guessing game.

There you have it in Goodman's own words. Watty Washburn, the beloved founder of the Reading Reform Foundation, used to call look-say "look-and-guess." He was right on target. According to Goodman, reading is a guessing game. Forget about the "psycholinguistics" nonsense. That's academic bull. Nor has he changed his mind since 1967, despite the continued drop in reading scores. In fact, Goodman is the leader of a new strong anti-phonics movement which is going to influence a lot of new young teachers who have never head of Flesch or even Chall. I found the professor's latest word in the December 1977 issue of *Theory Into Practice,* the journal of the college of education of Ohio State University. The entire issue was devoted to reading instruction and the lead article was written by Kenneth S. Goodman. Its title: "Acquiring Literacy is Natural: Who Skilled Cock Robin?" The pun is more than a joke, for Goodman's thesis is that we are killing reading instruction with "skill instruction," which is the latest designation for phonics. Goodman writes:

> My approach starts where the learners are; it extends and establishes functional uses for written language; it employs *only* whole, real, relevant, meaningful language; it encourages risk-taking, meaning-seeking, hypothesis-testing.

Sounds wonderful doesn't it? Aren't you thrilled by Goodman's breathtaking concept of reading? It reminds me of one of those helium balloons that slip out of kids' hands and go soaring up, up and away. Actually, if you analyze what Goodman is saying, you realize that he is describing what a crippled reader does to get through a page of print. He takes risks, seeks meaning, tests hypotheses. In the end he has no way of knowing for sure what it is he has actually read. It's all a guessing game. Does Goodman find any place for phonics in reading instruction, maybe just a little, tiny place? Here are Goodman's words at the close of his article:

> Too often in the past we tried to build technologies without a base in scientific concepts and understanding. We had alchemy before chemistry, astrology before astronomy, witch-doctors before modern medicine. Let's move on now from our reading skill technologies and relegate them to the museum of folklore and superstition in which they belong.

So now, according to Goodman, the only place for phonics is in a museum. Don't laugh. This is the man who will most likely be the next president of the International Reading Association. He represents the voice of authority at the highest level of reading pedagogy in America. Of course, someone should have reminded him that hieroglyphics came before the alphabet, and not vice versa. But I doubt that any such information would have the slightest influence on Dr. Goodman.

What does the IRA think about the Philadelphia story? They've remained strangely silent about the whole thing. So it is incumbent upon us to publicize the report and its findings as widely as possible. After all, if we don't, who will?

American Intelligence in the 1980's

THE MEDIA AND THE INTELLIGENCE AGENCIES

By STANSFIELD TURNER, *Director of Central Intelligence*

Delivered at the San Francisco Press Club, San Francisco, California, August 11, 1980

IT is always a treat to have a chance to exchange ideas with the press. I believe that our two professions, journalism and intelligence, have a great deal in common. We have in common the task of finding the facts about what is going on in the world; you primarily, for the American public; we, primarily for the American government.

Beyond that, we both recognize the great importance to each of us of protecting our sources of information. I admire those newsmen who have been willing to go to jail rather than to disclose their sources. I assure you that we too will go to considerable lengths to protect ours.

The appreciation of the value of an exclusive is another common professional characteristic. For you, it can provide an important edge over your competitors. For us, it can give the President of the United States an important edge of advantage when competing or negotiating with others.

There is also another interest we have in common. We both must possess some fundamental protections under the law if we are to continue to be effective for our country. For

you, the most fundamental protection is the freedom of speech which is guaranteed by the First Amendment of the Constitution. For us, it is the guarantee of a reasonable degree of secrecy, without which we simply cannot function. And, it is here that our interests sometimes appear to collide. It may seem to you that we are ready and eager to dispense with the privileges of the First Amendment in the pursuit of secrecy. Nothing could be further from the truth.

Today we are proceeding with deliberation and very great caution in seeking new legislation that will help solve the severe problems we have in maintaining a necessary degree of secrecy. We recognize that in so doing it is vital that we not endanger in any way the Constitutional guarantees of freedom of speech or any other freedom set forth in our Constitution. But at the same time, we must recognize that in the 1980s, the United States faces problems around the world to which our response may be in our best interests only if we have good intelligence.

I believe the decade of the 1980s will be more precarious for this country than the '60s and the '70s; first, because in the '80s, we will face for the first time a Soviet leadership that does not feel militarily inferior to the United States. Whether that Soviet perception is grounded in fact or fiction, there is very little that even the Congress or the Pentagon can do to change it significantly in the better part of the decade ahead of us. Consequently, our foreign policy must be based on the perception by the Soviets of military parity with us. Essentially, that means that our relationship with the Soviet Union must be handled differently than in the past. It is a new challenge to us.

A second reason the decade of the '80s will be different and more challenging is that the free countries of the developed world cannot expect the same continued high rate of economic growth we have become accustomed to in the past several decades. Traditionally, economic growth in developed countries has been tied to the growth rate of the energy supply. We in the Central Intelligence Agency believe that the developed countries of the Free World will be lucky if they sustain a growth rate increase of total energy supply — natural gas, oil, coal, nuclear, thermal, solar, whatever it may be — of 1 or 2 percent for the better part of this decade. And that may be optimistic. Thus, the rate of energy increase will not sustain gross national product growth rates of 4, 5 or 6 percent.

Beyond that, we forcast that in 1980 the OPEC countries will cream something like $127 billion off the top of international trade. That may not seem like a great deal until you compare it to the 1978 figure which was just $3 billion. When OPEC increased the price of oil 3½ times in 1974, the OPEC countries generated an enormous cash surplus. But by 1978 that surplus was worn down to $3 billion by two devices. One, they bought more from us. And, two, inflation ate into the rest of it. It has now risen to $127 billion because within the last 15 months the price of oil has gone up by 125 percent. There are clear signs that OPEC is not going to let us eat the $127 billion away by inflation in the future. We have a different challenge ahead of us.

Thirdly, in the 1980s the mechanisms for handling military, political, and economic problems are going to work differently. Our NATO and Japanese allies have sound political structures, are prosperous economically, and they clearly want to have a larger voice in the councils of our alliances. The lesser developed, raw material producing countries will be much more intent in the '80s on producing what is in their best interests, what suits their economies and needs, rather than ours. This does not mean that our alliances need weaken nor that there need be strained relations with the lesser developed countries. Instead, it means that we will have to be more astute and more foresighted. To do that we will need better information, better intelligence upon which to base this country's foreign policy decisions.

This brings me back to the issue of the First Amendment. Can we have better intelligence, which by its very nature must be obtained and kept in secret, without infringing upon the rights assured us all in the Constitution? I believe so. But I believe, first, it will require changes in the way we in the intelligence community go about our business. Beyond that, it will require new legislative support to enable us to function effectively yet guarantee all Constitutional provisions are respected.

Let me start by describing a few of the changes we have already made in how we go about doing our business. We are scrupulous today in avoiding any activity which might intrude on the privacy of an American, or which may confuse the intelligence gathering with law enforcement. For example, if we are tracing a flow of narcotics in a foreign country, and a foreign narcotics trafficker becomes involved with an American, either illegally or legally, we must drop the case.

An actual case a short time ago occurred during a rebellion in a lesser developed country in which we were very interested. We were having considerable difficulty keeping track of what was happening. The best information came from ham radio transmissions of an American missionary in the country. The question we had to answer before monitoring the missionary's transmissions was, "Does this qualify as illegal electronic surveillance of an American citizen?" Our lawyers debated the points of law involved and finally decided that as long as the missionary was using a ham radio band and method of transmission, which in essence is public, it would be legal to listen. But, if he shifted his technique or his frequency in an effort to disguise his broadcast — as he well might given the risk under which he was operating — then we would have to consider that a desire for privacy and we would have to stop listening.

My legal staff and that of the Attorney General very often must consider fundamental issues of Constitutional law like this in the midst of operational crises. The Attorney General's people have been very cooperative with us in coming to quick resolutions of these issues so we could proceed, nonetheless, the obvious result of these kinds of rules and procedures is that the speed and flexibility with which we can respond to crisis situations is reduced. You can imagine the dampening effect it can have on all intelligence work.

Today our operators in the field are almost forced to drop any operation which could involve an American citizen. In most instances, we can adapt reasonably well. However, because the issues are often complex and because my people in the field are generally not lawyers, it can have the effect of inducing over-caution by the individual on-scene. The more complex the legal standards with which intelligence officers must comply, the more the chance is that their initiative will be dulled and the more their flexibility in crisis situations which might involve the lives or the property of American citizens is reduced. Yet, let me add that I per-

sonally feel that the costs of insuring the rights of the American citizen under the Constitution are bearable and are worth it to us as a nation.

There is, however, another cost, a cost that has arisen out of recent years of focus by the public on the intelligence process, which is neither bearable nor worth it to our country. This is the cost which comes from the reduction in our ability to guard national secrets.

Today, there is much talk about unleashing the CIA. Unleashing is not what we need, not what we want, not what we are asking the Congress to legislate for us. What we do seek, because our effectiveness is dependent upon it, is to be able to protect legitimate secrets better; secrets relating to how we collect information; who our sources are; and what the information actually is. In four specific areas, we need legislative help. Unfortunately, much of the reporting on these requests for legislation has misunderstood their intent. I would like to take a minute on each to describe what we are seeking and why.

The first concerns covert action. As you know, covert action is not really an intelligence function. It is any effort by the United States to influence the course of events in a foreign country without the origin of that influence being identifiable. Covert action is a dirty word to some, and less than three years ago some people were trying to legislate covert action out of existence. In recent months, the American public and the American press have asked more and more "Isn't there something we can do to exert our power, our influence, overseas short of military action?" Yes, there is. Covert action has limitations, but it does have a proper place in our diplomatic portfolio between talking and fighting.

In 1974, Congress passed the Hughes-Ryan Amendment which requires that each time the President approves a covert action, I must notify up to eight committees of the Congress. I assure you it is very difficult to recruit volunteers to undertake a high risk covert operation if I have to admit to them that I am going up on Capitol Hill to tell 200 people about it. That is not to say the Congress is not trustworthy. I do not want to tell 200 people at the CIA about it either if they do not really need to know about it.

I understand and appreciate why the Congress passed the Hughes-Ryan Amendment in 1974. It was an initial effort to put additional controls on this activity, which may have been necessary and desirable at that time. But since then a rigorous set of oversight procedures has been instituted in the executive and congressional branches. One of these procedures provides for two committees of the Congress dedicated exclusively to intelligence oversight. The legislative relief which we seek would reduce our notification of covert actions from eight to those two intelligence oversight committees. This would still ensure adequate and effective accountability, and, in point of fact, not even reduce substantially the number of committees that know because on the two intelligence committees there are representatives of the other six committees. So if they have a legitimate jurisdictional need to know about a covert action activity, there will be members of their committees who can so inform them. We think this is an important step in bringing covert action back into the realm of the feasible while clearly providing for its responsible use through accountability.

The second area where we need relief relates to the Freedom of Information Act. The problem here is much more one of perception than of fact. Our foreign sources and the foreign intelligence agencies with whom we cooperate are not persuaded today that their identities and the information they give us can be kept secret under the Freedom of Information Act requirement.

In fact, it can. Under the existing law, we are not required to release information about our sources through the Freedom of Information Act process. But that protection is continually being challenged in the courts. Our agents wonder how much longer we will win those cases. As long as they perceive that there is a risk to them from the Freedom of Information Act if they work with us, our operations will be hampered.

Again, we are not asking for a blanket exemption from this act. We are asking for an exemption for information pertaining to the identification of our sources so that we can assure those sources that they are specifically exempt. This need to protect sources is an area of intelligence work that should be better understood by you of the media than by any other audience.

The third area is a problem of very serious personal concern to me. It concerns the deliberate, callous disclosure of the identities of our people and our sources overseas. It is unreasonable, in my opinion, to ask Americans to work for the CIA abroad, especially in the lawless climate that exists today, where our people's lives are frequently on the line by the very nature of the work that they do, if we cannot at least protect their identities from our enemies.

Yet we are in a position today where people like Philip Agee, whose avowed purpose is to destroy the Central Intelligence Agency, can do these things with impunity. You will all recall the case of Richard Welch, our chief of station in Athens in 1975, who was murdered shortly after the disclosure of his identity. You are all well aware that five weeks ago in Jamaica one of Agee's cohorts, Louis Wolf, went on television, showed the pictures of 15 employees of the American Embassy, gave their names, their telephone numbers, their addresses, their license plate numbers. Two nights later the home of one of them was bombed and machine-gunned. Two nights after that there was an abortive attack on still another one.

It makes no sense to call for better intelligence on the one hand and then not take steps to provide elemental protection to those who are going to collect that intelligence. There are of course, the obvious risks to the officer and his family. Beyond that there is the sacrifice of his career when he is exposed. The nation, in turn, loses the substantial investment it has made in the individual. The replacement of compromised officers sometimes takes us years and sometimes it is impossible.

In addition, once an officer's identity is disclosed, our adversaries can analyze his past associations and his places of employment, uncovering still further his associates, his sources, and others who help the United States at often great personal risk.

I have watched the legislative history over the last six months. It has been controversial and it will continue to be so. The debate in the Senate has raged from one extreme to the other. Early in the game, one senator said it was just not possible to punish private citizens who had no direct or authorized access to this classified information that was be-

ing disclosed. Recently another senator said that some risk to our civil rights were acceptable because "it is not possible to have an ongoing intelligence capability and a totality of civil rights protection."

The consensus legislation that is now drafted is somewhere in between. It is very narrowly crafted so as not to infringe upon the fundamental freedoms of speech and of the press that we all support. It would first apply to persons who have had authorized access to classified information and then disclose it. But it would also apply to anyone who discloses protected intelligence identities if he or she does so as part of a deliberate effort to impair or impede our foreign intelligence activities. Given the impetus of this recent Jamaican incident, there seems to be a good prospect that this relief legislation will pass in this session of the Congress. I hope so.

Lastly, we need legislative relief against "gray mail." Gray mail refers to a situation in which a defendant or his attorney demands that the government produce all manner of perhaps irrelevant classified information in the course of a prosecution in the hope of dissuading prosecution. Unfortunately, there have been cases when such disclosure would have damaged the United States more than would have been a withdrawal of the prosecution, and we have had to withdraw. A gray mail bill has been proposed by the Attorney General and passed by the Senate. Hopefully, it will pass the House within the month.

In brief, this bill would enable the government to prevent the unnecessary disclosure of classified information during discovery or trial by allowing the prosecution to obtain pretrial rulings on issues of relevance and by providing the court with alternatives to dropping the case in the event that the government still decides that it could not, for reasons of national security, adduce this necessary classified information. The alternatives, for instance, might include the judge stipulating that certain facts are true, or dismissing a particular count, or excluding the testimony of a particular witness. All in all, we simply ask while protecting the rights of the accused for some way to provide classified information to the court in a manner that will not lead to its general disclosure if that would harm the United States.

Let me sum up by saying that you in the media and we in the intelligence profession, as Americans, face a common dilemma. On the one hand, we are all striving for an ideal: an open society, one in which government processes are as open as possible. On the other, every responsible American recognizes the necessity for an essentially secret intelligence service to prevent our country from being surprised or threatened from without. The issue is can the ideal and the necessity coexist?

I believe they can. I believe they must. The issue is not the leashing or unleashing of the Central Intelligence Agency. The issue is whether we can equip our intelligence agencies with both the legal and the practical tools to do their job effectively in a changing world environment and, at the same time, require them to adhere to the legal and ethical standards on which our country was built.

I believe we can achieve both objectives. The institution of rigorous oversight procedures in both the executive and congressional branches of our government over the past three years has given the American citizen reason to be confident that American intelligence activities are in consonance with national policy and that they are accountable to the people through their elected representatives. At the same time, with the growing understanding and support of the American public, and with the passage by the Congress of the legal remedies I have described, I believe that we can continue to be the most effective intelligence service in the world.

We are moving surely, steadily in the right direction. But we are not yet there. I ask you who are in a profession not at all dissimilar from ours for your understanding and your support, not just support for enactment of these legislative remedies, but your support for the maintenance by this country of a strong, intelligence capability so that we can learn about and interpret events in other countries. We will very much need to be able to do that throughout the precarious decade that lies ahead.

Thank you very much.

Conservation in the 1980's

BUILDING A FIRM FOUNDATION

By WILLIAM K. REILLY, *President, The Conservation Foundation*

Delivered at the Town Hall of California, Los Angeles, California, July 8, 1980

THE 1970's were years of steady progress in conservation and environmental improvement. The air and waters of many of the industrial cities have not been so clean before in this century. The "environmental decade" of the '70's compiled a remarkable record of laws passed, agencies created and awareness of natural values heightened and translated into action.

As the 1980's begin amidst gloomy and dispiriting news about the economy, about Iran and Afghanistan, it is worth remembering that this society achieved a very substantial success during the past 10 years. Conservationists reflecting on this success — on *their* success in the 1970's — are anxiously wondering whether past gains will hold against continued economic buffeting in the years ahead.

Conservationists need to recognize that the heady days of the early 1970's are gone, and with them some opportunities that will not soon recur. But the years ahead bring their own, quite different opportunities for effective action.

What are those opportunities? How can conservation priorities and strategies best be adapted to respond to the society's new preoccupations? I see three critical priorities for the years ahead.

First, the new decade presents an opportunity for the conservation community to return to its historical concern about resources, and to clarify the central role of resource conservation to the long-term health of the society. Never

before has resource conservation been so essential to the national well-being.

Energy conservation presents the highest immediate priority. People concerned about inflation and productivity, about the strategic consequences of the country's dependence on oil imports, about acid rain and CO_2 buildup — people who may be able to agree on virtually nothing else — can reach consensus on the need to conserve energy.

Unlike the situation during much of the 1970's, most Americans have come to believe there really is a world oil shortage. A significant number of Americans have begun to accommodate to higher oil prices by learning to use oil more efficiently — by cutting down on unnecessary automobile driving, for example, or by designing more energy-efficient homes. Others are replacing oil with gas or wood or coal.

During most of the years since the OPEC embargo of 1973, there was no public consensus about the nature of the U.S. energy problem and thus little support for dealing with it effectively. The popular refusal to believe a fundamental energy problem existed made political leadership in the energy field very risky. Few public officials dared to take the chance. Now, as public opinion has begun to shift, the key pieces of a realistic energy policy are finally falling into place. It is reassuring that the United States is now moving — in industry, automobile manufacture, home building, and energy pricing — to use less oil. The mix of public policies necessary to achieve energy conservation opportunities, promote shifts away from oil, and ultimately, stimulate innovations in solar and renewable energy technologies will require constant analysis, adaptation, and explanation.

Another critical resource priority in the years ahead is to reverse the degradation of the nation's productive agricultural resources. Last year, 61 percent of the food grains moving across international borders originated in the United States. What Saudi Arabia contributes to the world's energy needs, the U.S. contributes to the world's food supplies. And, like Saudi Arabia's oil, America's food-producing capacity is being depleted.

Almost half the topsoil in some of the most productive middlewestern farmland has washed away. Fence-to-fence cultivation, impaction by heavy equipment, cultivation of marginal lands, elimination of shelterbelts, urbanization — all are taking a heavy toll of America's uniquely productive endowment of soils.

The various threats to U.S. agriculture are not limited to soil loss but include: rising energy costs, which translate into bigger bills for grain drying, irrigation, fertilizers, and truck and tractor fuels; monocultures; too few seed stocks to sustain the huge corn and wheat surpluses in the event of a viral or bacterial attack on one or more seed variants; and, in growing areas of the South, Southwest, and West, the steady depletion of groundwater for irrigation.

A billion people will be born in the next 11 years. A great many of them have a crucial stake in American food production, one third of which is for export. A great many of them also have a stake in U.S. energy conservation, essential to moderate world oil use. Wise use of American resources is a matter of utmost national and international interest, a moral imperative worthy of the best efforts of conservationists and everybody else.

As world population grows and as other nations continue to acquire equivalent levels of technology, skills, and capital, what distinguishes this nation and confers upon it a special destiny will be its natural resources. Conservation of agricultural resources was not a success story during the 1970's. We must make it one, along with conservation of energy, during the 1980's.

Our most important legislative gains during the "environmental decade" were in pollution control and government processes such as environmental impact assessment. These present a second area of opportunity for the 1980's.

At first glance, these opportunities may not look very great. A chorus of interests is calling for rollbacks of "unaffordable," "wasteful," "ineffective," and "bureaucratic" environmental controls. Everything from the nation's competitive capacity in international trade to the national security is being asserted as a reason to weaken environmental protections, particularly those of the Clean Air Act, the National Environmental Policy Act, and the Surface Mining Control and Reclamation Act. Some people who never did get the environmental message see the changing context of the '80's as an opportunity to undo its effects.

In practice, however, wholesale rollback of environmental protections will rarely, if ever, be the issue. Thanks to efforts in the 1970's, most of the needed laws are in place. Public awareness of environmental needs is so well-established that massive retreat seems sure to remain politically unthinkable.

Our task in dealing with pollution and governmental processes in the 1980's will be to consolidate these past gains — to secure effective performance even from programs that have thus far cost more and achieved less than we had hoped. Securing performance will not be made easier by the economic troubles and foreign entanglements of the '80's.

The increasing complexity of environmental problems will also make matters more difficult. A number of environmental solutions devised during the past several years followed a pattern: they identified a single problem, developed a control process and a standard for a pollutant or set of pollutants, and proceeded to tighten the standard over time. Mountains of sludge now accumulating from water pollution control plants were not anticipated nor was their disposal planned for when the water pollution program began. Now, however, these wastes rich in cadmium and other toxic materials present a new set of problems, and no disposal option is ideal — not burning, not depositing on crops, not dumping at sea. Solutions will involve other media than water and they will entail trade-offs. In the years ahead, society will have to deal with problems such as these in their entirety, and reconcile many interests and objectives in resolving them.

Consolidating environmental gains in the new context of the '80's requires attention to the details of how programs are working, how they can be made to work better, and how they can be refined to accommodate multiple national goals. Let me suggest the kinds of things conservationists can and should do:

—We can explore and publicize the benefits of environmental programs. Cost-benefit analyses often place excessive emphasis on the costs of pollution control because costs are relatively easy to quantify: the price of stack scrubbers or of preparing environmental impact statements, for example. But the benefits — many of which are intangible — are more difficult to assess. These benefits must not be overlooked, for they are real and no calculus of costs is

complete without them, as we must constantly remind the business leadership, the Congress, and the public.

—We can give particular emphasis to health-related benefits. Dirty air has a direct effect on the health of thousands, perhaps millions of Americans. Even during the most severe economic troubles, health concerns are likely to remain high among public priorities.

—On the cost side of the balance, we can assure that costs are not exaggerated. Were jobs really lost because of environmental controls — or were the controls a convenient scapegoat? Did pollution controls force the plant to move — or was its equipment obsolete and uncompetitive?

—Finally, we can work to assure that environmental programs are effectively and efficiently implemented. The widespread complaints of regulatory overlap, complexity, and uncertainty, for example, reflect real problems with real consequences. We can help to see that those problems are addressed in ways that effectively reconcile conflicting objectives.

Tasks such as these call for a style different from that of a decade ago, quite different from the media stereotype of an environmentalist. Four years ago, when I first reported the need for attention to consensus-building efforts in quiet cooperation with other sectors of society, including business and labor leaders, I wondered whether that condemned The Conservation Foundation to minority status within the conservation movement. Now I don't think so. A message that once seemed out of step is, I think, increasingly accepted. Cooperative research and communications and consensus building, while hardly the only tools being used by conservationists, have a critical role acknowledged by many. The tasks of consolidation entail different needs, require different skills and styles, than the tasks of legislative enactment.

Many Americans are discouraged about the ability of governments — particularly the federal government — to satisfy public needs. Too many federal programs seem costly and ineffective. Too many public officials have proven untrustworthy. The call is out for less government spending, less government intervention in the lives of citizens.

This public mood has already led to a lessening of federal willingness to address environmental problems in new and imaginative ways. Conservationists should not infer that environmental problems have therefore become unsolvable. Rather, we should respond by focusing more of our attention on state and local and private action. This is a third priority for the decade.

Many of the problems that we face in the 1980's are most amenable to small-scale, fine-grained solutions. This is particularly true of many resource management problems. Energy waste, groundwater pollution and depletion, piecemeal urbanization of prime farmland, and degradation of coastal lands and waters represent an accumulation of thousands of small decisions. I don't question the usefulness of federal incentives and requirements in addressing some of these issues. It is clear, however, that federal actions would be insufficient even in the best of times. State and local and private initiatives and experimentation are essential to obtain finely tuned solutions to the diverse resource management needs of a very big country.

Emphasis on state and local and private initiatives can also help the process of consensus building that is needed to consolidate the gains of the 1970's. Too many of our detractors — and even a few of us — have come to believe that environmental action comes only after an adversary process has produced legislative or judicial decisions that compel federal action. It has become too easy to focus attention on the compulsion instead of on environmental needs. Focusing our attention on state and local and private action can help to create the support necessary to solve environmental problems that are seen to be real, near at hand, and susceptible of resolution by familiar and accessible people and institutions.

Any reform movement faces risks when it tries to follow up early successes. The environmental movement that was the cutting edge in the 1970's could become dull in the 1980's — pursuing strategies that no longer work, failing to address new problems. None of this will happen, however, if we pursue the important opportunities that are opening before us. Building upon success, we are entering the 1980's well positioned to espouse the enduring message of conservation to a society that has rarely if ever been more in need of learning it.

Professionalism and the Corporate Bar

VALUE-NEUTRAL DECISION MAKING

By HAROLD M. WILLIAMS, *Chairman, Securities and Exchange Commission*

Delivered to the American Bar Association Section of Corporation, Banking and Business Law Annual Meeting Program, Honolulu, Hawaii, August 5, 1980

PERIODS of major economic and social difficulties precipitate uniquely American reexaminations of our institutions. In the tradition of Yankee ingenuity and pragmatism, the public wants to know what is not working correctly and how to make it right. Thus, for example, the Great Depression led to a fundamental restructuring of society under The New Deal. Today, as we struggle with the highest inflation rates of this century and brace for the possibility of the most severe unemployment in five decades, it is not surprising that we are also entering a new period of societal introspection.

Yet, even if we are on the brink of a social watershed equal in magnitude to the 1930's, there is an important difference. More and more, we read of charges that government is itself the problem and hear that the regulatory solutions to past crises have grown into the proximate causes of this one. That is, remedies enacted to cure discrete economic and social misallocations and injustices have, over

the years, subtly taken on an independent existence not always limited to their origins. As a result, many feel that we are, as a nation, economically over-regulated and socially over-legalistic.

At least, this latter perception is certainly accurate. America has become the most legalistic society on earth. We have three times as many lawyers *per capita* as Great Britain and twenty times as many as Japan. And, probably for reasons not unrelated to this explosion in the legal population, we are also producing more laws and more litigation. But, it would be a mistake to assume that a nation with more laws is, therefore, a more moral or even a more pleasant society. As a Royal Commission reviewing the British legal profession recently concluded,

> "A society in which all human and social problems were regarded as apt for a legal remedy or susceptible to legal procedures would not be one in which we would find it agreeable to live." On a more philosophical plane, Alexander Solzhenitsyn — in his provocative talk several years ago at Harvard — warned that "[w]henever the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity."

While these issues should concern all Americans, they have special significance to those in this room — the members of the corporate bar. Nowhere is our society more legalistic than in regulating our economic life. Ironically, however, society is simultaneously becoming more — rather than less — questioning of the social benefits of the exercise of private economic power. Indeed, that skepticism may be a manifestation of the moral mediocrity which Solzhenitsyn described. When the private sector loses final decision-making power over important areas of its activity in favor of a superimposed regulatory scheme, it inevitably also begins to lose its economic bearings and discipline and — even more importantly — its sense of moral responsibility. When business is required to operate in a regulatory environment — and, when it is concerned that any misstep which it may make will be used to justify even more regulation — business is compelled to become more and more attentive to its regulators and, consequently, becomes less rather than more responsive to the needs and expectations of the market and the public. Correspondingly, business's unique intrepreneurial ability to create and innovate — the ultimate justification for an independent private sector — tends to atrophy. This partial eclipse of the market discipline does not, however, mean that business becomes more sensitive to the other needs and expectations of the society or that it becomes more socially responsible. Indeed, in a regulatory environment, business tends, over time, to view the government as the arbiter of acceptable behavior and, therefore, to presume that any course of action which is not prohibited by the government is, consequently, an acceptable alternative. Business, in effect, relinquishes its responsibility to establish its own parameters for proper business conduct — and leaves the government to fill the vacuum.

Therein lies our dilemma. On one hand, regulation tends to diminish the regulatee's initiative and sense of responsibility for the consequences of its conduct — a result which, in turn, leads some to advocate still stricter control to satisfy society's expectation that the regulated power group or institution will conduct itself in a manner which contributes to — and does not frustrate — a fair and orderly society. Opportunities for the private sector to assert its independent sense of responsibility become preempted by the imposition of regulation. We are presented with a process in which regulation diminishes business's sense of accountability, which in turn, precipitates even greater regulation to fill that accountability vacuum — an unending downward cycle which could culminate, without deliberation or conscious decision, in the destruction of the private enterprise system as we know it.

To break this cycle, I believe that greater reliance must be placed on nonregulatory ways to enhance the process and credibility of corporate decisionmaking. To my mind, the only practical alternative available to defend the private enterprise system is to make the system, as designed, work as effectively and credibly as we can, and with a greater sense of accountability for its actions. Over the last three years, I have spoken on various aspects of this theme. My basic point can be easily summarized: If the private sector is to extract itself from the deepening morass of regulation, each of the many actors on the corporate scene must perform his function responsibly and effectively. Much like a circuit board, each element has a unique function to discharge, and must be fully operational and effective for the system to work. Despite the demonstrated ineffectiveness of much regulatory authority, we cannot expect a structural change in the role of regulation without the initiative on the part of the private sector to ameliorate the role of regulation by assuming a greater burden of responsibility. That includes the corporate lawyer, and it is his role which I want to consider with you today.

It may seem, at first blush, somewhat ironic that one ingredient in my antidote for the ills of an overly legalistic society is an enhanced role for the corporate bar. The role that I envision is, however, not that of the lawyer as technician, but that of the lawyer as counsellor. The species of corporate lawyer who can contribute to solving the dilemma I have outlined is not merely an expert on the law. On an individual level, he is an independent professional whose advice should encompass not only his legal talents, but the full array of his experience and judgment. On an organizational level, the bar, as an entity, must support him by defining the relationship between the lawyer and his corporate client in a fashion which fosters his fullest possible contribution to the service of that client. This afternoon, I want to address both of these areas.

THE LAW AS A PROFESSION

A Spirit of Public Service

At the outset, I would like to explore the concept of professionalism. This is an era in which our most prestigeous and influential corporate practitioners frequently serve in law firms which are themselves interstate businesses with employees numbering in the hundreds and which command hourly fees rivaling the daily income of their counterparts in more prosaic endeavors. As Justice Harlan Fisk Stone, previously a partner in two Wall Street firms, explained:

> "The successful lawyer of our day more often than not is the proprietor or general manager of a new type of factory. More and more he must look for his rewards to the material satisfaction derived from profit as from a successfully conducted business, rather than to the intangible and indubitably more durable satisfactions which are to be found in a professional service

> more consciously directed toward the advancement of the public interest. . . . At its best this changed system has brought to the command of the business world loyalty and a superb proficiency and technical skill. At its worst it has made the learned profession of an earlier day the obsequious servant of business, and tainted it with the morals and manners of the marketplace in its most anti-social manifestations."

Mr. Justice Stone's observations have become increasingly appropriate. In this milieu, it is important that we remind ourselves what it is about the calling of the law which makes it a profession. Dean Roscoe Pound observed that a profession is characterized by "three essential ideas — organization, learning, and a public spirit." This element of public spirit ideally supersedes the parochial interests of the profession's individual practitioners. Or, in Dean Pound's words:

> "The gaining of a livelihood is not a professional consideration. Indeed, the professional spirit of public service constantly curbs the urge of that instinct."

This ideal historically has been the justification for the public's reliance on professional self-regulation. Groups — such as lawyers and physicians — which hold themselves accountable to altruistic considerations have been thought to be worthy of being entrusted with the responsibilities of regulating their own members. Further, the decisions of the professions have traditionally been received with deference, since the public's interests were assumed to be with the profession.

Increasingly over the past decade, however, our society has witnessed the crumbling of much of the sense of mutual trust which sustains this kind of public faith in private institutions. With respect to the professions, there are those who would say that no sense of public spirit has ever existed at all — that it was merely a myth fashioned to rationalize a lucrative monopoly power and to sustain the calculated mystification and arcane terminology necessary to exclude the outsider. These critics would agree with George Bernard Shaw who argued that "every profession is a conspiracy against the laity." Others would suggest that, while a spirit of public service might still stand as a professional ideal, in practice it runs a poor second to more material considerations.

In fact, it is likely that a tension has always existed between the ideals of professionalism and the realities of daily practice. For example, speaking of a sister profession, Oliver Wendell Holmes, Sr., the father of the great jurist and himself a physician, observed that "the truth is that medicine, professedly founded on observation, is as sensitive to outside influences, political, religious, philosophical, [and] imaginative as is the barometer to the changes of atmospheric density." From this perspective, the risks to the erosion of professionalism lie not in the occasional instance of compromise or of out-and-out misconduct. The more serious danger is that practitioners themselves will reject the ideals of public service or dismiss them as naive or archaic. For absent meaningful ideals, a profession is no more than another typical trade association dedicated to protecting the parochial interests of its members, defined in such an unoffensive way as to attract the largest number.

Regulation of Practice

Indeed, more and more, the professions have divested themselves of their ideals and traditions and taken on the trappings of commercial ventures, including mass advertising, impersonal merchandising, and associations perceived as mutual protection societies which lobby reflexively against proposals which might impinge on their or their clients' short-term interests. Not surprisingly, the public's response has been to reduce its deference to the professions while government has enhanced its interest in their activities. The latter is especially significant. After all, government regulation has been the classic social response to perceived business unaccountability.

In the long-run, nothing is more critical to a profession's survival than the public's perception of it. And, in an era of widespread suspicion of all institutions, the professions are especially poorly perceived. If the professions wish to enhance their status and regain some of the lost measure of public deference — indeed, if they want to defend their heritage of independence — they must reaffirm the moral force which has traditionally marked them as callings dedicated to public service. For the practice of law, that means, in part, the formulation of a code of professional conduct which meets the public's reasonable expectations of behavior for lawyers. Appropriately, the American Bar Association is presently engaged in that task. I applaud the ABA for accepting that challenge and I admire the thoughtful and conscientious efforts of those primarily responsible for giving birth to the new Code — the members of the Commission on Evaluation of Professional Standards. The undertaking on which they are embarked presents a special opportunity for the bar to reaffirm its tradition of professionalism, as well as its commitment to meeting the contemporary public's reasonable expectations. I would urge that the bar's deliberations on the Code be conducted in this context and that the tempering of the proposed Code from the original proposal be reviewed from the perspective of professional ideals and of the message it communicates to the larger society.

But, even the most ideal Code is meaningless without the will to enforce it. Yet, critics point to a gap between the bar's professed obligations to the public and its tendency to protect fellow practitioners — and, indeed, the profession itself — from any critical light. This phenomenon seems to reflect a basic reluctance among self-regulatory groups to subject themselves to standards higher than the existing norm of behavior. The result, however, is a reduction in the deference accorded the bar by other institutions.

Let me make this point more concrete by relating it to an issue of current concern to the corporate bar — the Commission's administration of Rule 2(e) of its Rules of Practice. That rule, as most of you are undoubtedly aware, authorizes the Commission to discipline professionals who practice before it. The Commission has an important interest in ensuring that the members of this category of practitioners are not unqualified or unethical. As the Second Circuit recognized in sustaining the validity of Rule 2(e):

> "[T]he Commission necessarily must rely heavily on both the accounting and legal professions to perform their tasks diligently and responsibly. Breaches of professional responsibility jeopardize the achievement of the securities laws and can inflict great damage on public investors."

The question, then, is to what degree must the Commission exercise a primary role in protecting these interests and to what extent can it defer to other institutions — such as

the organized bar — with the expectation that meaningful standards, even if not necessarily identical to those which the Commission would apply, will be vigorously enforced. In my opinion, if unqualified and unethical lawyers are subject to such standards enforced by professional disciplinary bodies, then, absent unusual circumstances, Rule 2(e) would not need to be applied to lawyers. Conversely, however, if professional self-regulation is lax, our role must expand.

Even under an ideal Code, enforced by means of an ideal disciplinary mechanism, disagreements will necessarily arise concerning particular examples of attorney conduct, and I would not want my remarks today to be construed as relating to any particular case. Rather, my point is that the most fruitful issue for examination by this Association is *not* whether the Commission should be deprived of its authority under Rule 2(e). The question, instead, is whether the bar's enforced standards of competence and integrity are sufficient to protect against lawyer abuse of those components of the public interest embodied in the federal securities laws. If they are not, society must look to other institutions — including the Commission — to fill that role.

But, the exalting spirits and traditions which are the true mark of a profession can only arise from within the bar. They can never be imposed from without and still have a profession survive. Imposition from the outside must inevitably be destructive of the profession. While the practice of law could be regulated as a business, the profession of law cannot be. Professional aspirations must be generated internally — from those loving critics who know the bar's tensions, its frailties, its capabilities, and its limitations, but who cherish the profession and can offer their fellow practitioners a new vision. In an earlier era, Jeremy Bentham played this role for the English law, as did Dr. Abraham Flexner for modern medical education. As their examples demonstrate, individual minds and consciences from within a profession — and *only* that kind of internal leadership — can establish and maintain the sense of ethics which separates a profession from a business.

THE CORPORATE LAWYER

The Lawyer As Counsel

It is this concept of professionalism that the corporate lawyer must bring to his client counselling. Corporate lawyers have become an indispensible participant in the system of persons, groups and occupations whose interrelationships comprise the corporate environment. Each component of that environment has important roles and responsibilities. Management's primary mission is to ensure that the corporation generates adequate profits over time by satisfying customers' needs with goods and services at an attractive level of quality and price. Directors must bring to management the best informed and most objective available advice, perspective, support, guidance, and, when necessary, discipline. Auditors assure the credibility of the financial information upon which those external to the corporate structure judge the economic results of management's stewardship. And, lawyers — along with their more mundane responsibilities — must be the architects of the accountability processes which provide the corporate structure with the discipline necessary for effective decisionmaking and which legitimize the corporation's power and impact in society.

In a sense, this means that the corporate lawyer has an obligation to protect the corporation as a societal institution. These obligations transcend the narrow interests of particular clients. But that concept is hardly unique. The bar's professional ethics already recognize that a lawyer — by virtue of his special office and skills — has responsibilities broader than loyalty to his client. For example, a lawyer acting in the traditional role of trial advocate has a duty to disclose decisions in the jurisdiction adverse to his client's immediate, personal interests in the case. This requirement, obviously, recognizes that, as officers of the court, lawyers have an overriding obligation to maintain the integrity of judicial institutions. Similarly, the lawyer cannot counsel his client in the commission of a crime — again, because society recognizes that it has certain claims on legal officers which are more potent than those of the client.

In contemporary times, the role of the lawyer has, of course, expanded beyond the traditional confines of the courtroom, and, particularly in the corporate world, most lawyers function as advisers rather than as advocates. In my view, corporate lawyers must adjust their concept of their professional obligations to match society's evolving conception of the responsibilities of the institutions which the corporate bar serves, the rights of those impacted by such institutions, and the needs of the larger society.

There is, however, a disturbing trend among some corporate lawyers to move in the opposite direction — to see themselves as value-neutral technicians. True, ethical dilemmas can be avoided if one's job is viewed as profit-maximizing or as uncritically representing — and not questioning or influencing — the corporate client's interests so long as they are not illegal. In many ways, eliminating these tensions and professional responsibilities would be a comfortable and less contentious alternative. But, indifference to broader considerations would not be professional. Similarly, it would not serve the client well. A counsel does a disservice when, in effect, he limits his advice to whether the law forbids particular acts or to an assessment of the legal exposure, and does not share with the client his view of the possible ramifications of the various alternatives to the short- and long-term interests of the corporation and the private enterprise system. He preempts the opportunity for his client to make the fullest possible judgment by not providing the full range of information and advice of which he is capable and on which the client can make the most informed choice. To correct this tendency, the bar must place greater emphasis on the lawyer's role as an independent professional — particularly, on his responsibility to uphold the integrity of his profession. In the balance of my remarks, I want to apply this observation to two important areas where the proposed rules do not fully recognize the professional responsibilities of lawyers who counsel the most important and pivotal private sector institution in American society — the corporation.

Communicating With The Client

One of the cardinal attributes of the attorney-client relationship is free and frank communication. In the corporate context, that should entail an obligation to communicate to the corporation — meaning its officers or, if necessary, its board — if he or she is aware that the corporation is embarked on a course of conduct which, while arguably lawful, may be questionable and is of such significance that the corporation's interests — not limited to legal liability — may be materially affected.

I doubt that explicit recognition of this duty would mean

— as some have suggested — that the attorney would be isolated from candid discussion or full information because of management's concern that the lawyer would be a conduit of the board. But, to the extent that it does, it is a responsibility the client must assume. This is not a basis for compromising the lawyer's appropriate ethical standards. Further, we must recognize that management itself may well have obligations to report to the board in similar circumstances. And, if management is not inclined to be open with its board or would choose not to consult counsel rather than risk counsel's going to the board, counsel may well be on notice of larger potential problems with his client's candor and integrity. And, finally, all who deal with an attorney must understand that a lawyer should not be used as a value-neutral technician and that a necessary adjunct to his technical skills is sensitivity to ethical considerations. In my opinion, the prestige that such integrity engenders will enhance — rather than diminish — the role of the lawyer as a counsellor.

My concerns in this area go far beyond the possibility that a corporation may risk legal penalties or serious damage to its reputation. More significant in the long-run to the American economic system is the fact that, in some situations, the corporate conduct is incompatible with the continuation of the corporate system as we know it. And, by acquiescence, the lawyer becomes a party to its further erosion. It would not be consistent with the bar's professional obligation if it insulates attorneys from their responsibility to prevent situations which could contribute to the erosion of the corporate system which they serve.

But, I do not take comfort from the fact that the proposed Model Code would *permit* the attorney to refer particular matters to higher client authority, including, if necessary, the board of directors or a similar governing body. That Code provision, taken together with the related commentary, erects a number of additional hurdles which would frustrate, rather than facilitate, the attorney's communication with the client. Worse still, these hurdles may be used by timorous corporate lawyers to justify standing mute. For example, the commentary suggests that counsel must have a "clear justification" before going over the head of a corporate officer; in my judgment, the dictates of the attorney's own sense of professional responsibility ought to be justification enough for bringing a matter to higher levels of corporate authority. Further, the comments caution that lawyers must be confident that the question is one of law and not merely policy. To the extent that considerations of matters which are not strictly legal, such as damage to reputation or considerations with ethical overtones, would be considered as a policy — rather than legal — concern, it would seem that the proposed Code restricts the lawyer to the role of legal technician, rather than encourages the corporate attorney to exercise the broader sensitivity and judgment which are the hallmark of a profession.

For these reasons, the proposed Code, in my view, lends credence to the mistaken belief — ultimately corrosive of the bar, the corporation and private enterprise itself — that anything which is not illegal is within the realm of the acceptable. Yet, rarely is a complex legal matter not subject to a counter-argument which the lawyer looking for excuses to avoid confrontation could seize upon. Indeed, we are told that, at times, it may be essential for counsel to obtain an independent legal opinion before taking independent action to bring a matter to the attention of the board — a precondition which appears to undermine the ability of a corporate superior to consider an issue which, *a fortiori,* is a close and difficult one. Thus, while the Code's direction is right, it does not travel far enough along the road in confirming the corporate lawyer's role and responsibility. When the corporation and the corporate community is pilloried for the course of conduct — legal but otherwise totally insensitive to the public or even the corporation's own interests over time — and the participants are evaluated in the court of public opinion, counsel and the bar will most assuredly not be treated better because the thrust of the canons limited the lawyer's responsibility to the legal issue involved.

The role of the profession must be to encourage and support its members in taking ethical actions. In the example I referred to a few minutes earlier, the lawyer who must disclose an adverse decision to the court is supported in resisting any client pressures to do otherwise because ethical standards which every lawyer is bound to follow compel him to do so. But, the lawyer acting to protect the institutional integrity of a corporate client must face possible threats to career, personal relationships, and other interests without any similar justification or support from the bar — which merely says, in essence, that he or she "may" or "may not" take such actions. Given human nature, such a permissive standard, in most cases, likely would mean no standard at all. In fact, it may be worse than no standard at all — for it can legitimize what ought to be unacceptable professional conduct.

The Georgetown Petition

This lack of a meaningful standard would create a vacuum which would not long continue. Other institutions — particularly, government — with an interest in maintaining the integrity of the corporate structure would find themselves under increasing pressure to fill the void.

Some have already looked to the federal securities laws for this purpose. While the Commission has long appreciated the role of counsel in maintaining corporate accountability, it has never determined generally to mandate disclosure of relationships between a corporation and those who serve it exclusively in a legal capacity. Yet, as many of you know, the Commission recently was requested to consider this issue in a rulemaking petition filed by the Institute for Public Representation of the Georgetown University Law Center. A majority of the commentators who opposed the Institute's proposal cited this Association's consideration of a revised code of professional conduct and suggested that that effort would clarify the lawyer's responsibilities — thereby eliminating any need for the Commission to act. It is my personal hope that the bar will prove these commentators correct. In any event, the Commission did determine not to adopt the proposed rule, and, if the new Code fulfills the expectations which many hold for it, it is unlikely that we will again be compelled to deal with this area.

The Lawyer/Director

Another matter which should be of concern to the bar — but which already is a subject for public disclosure under the federal securities laws — is the lawyer who sits on his client's board of directors. The Commission's survey of 1979 proxy statements — to be released shortly — reveals that over 57 percent of all reporting companies have directors on their boards who also collect legal fees from them. It

is clear that this dual role can foster a public perception of conflict of interest, and may undermine the objectivity of the advice the lawyer/director renders in either capacity. The concern is both substantive and perceptual, and relates to the corporate mechanism — the board of directors — which must function with integrity and be trusted to do so, as the key accountability mechanism if the system, as we know it, is to survive. Ironically, while the Commission's concern about this issue is sometimes cited as an example of regulatory expansionism, I understand that, fifty years ago, it was generally considered unprofessional for a lawyer to sit on a client's board. But, once some lawyers began routinely to serve on boards, other lawyers believed that they no longer could afford to look exclusively to ethical considerations.

The result is that this dual capacity must be meaningfully addressed by the profession. Some have suggested that an outright ban on dual service as a lawyer and a director would be the most appropriate solution. Indeed, an eminent corporate lawyer of an earlier generation, Robert Swaine, in a speech to the New York Bar Association recommended an ethical canon which would have forbidden a lawyer to accept a place on a client's board in all circumstances. Perhaps a degree of flexibility would be more appropriate, but such flexibility, if it is to be permitted, must be subject to the discipline of meaningful, credible standards which go beyond vague reference to possible conflicts of interests or compromise of independence. For example, the bar could establish a general prohibition against dual service, but allow an independent decisionmaker — such as approval by an independent nominating committee, and surveillance by an independent conflict of interests committee, of the company's directors — to make exceptions when warranted. The proposed Code states that "it is often useful that the lawyer serve both as counsel and as one of its directors." Useful to whom? And, for what purpose? I doubt any usefulness that cannot be effectively achieved in other ways. The commentary would benefit from examples. It might also express the necessity for counsel to have free and regular access to the board of directors, including attendance at board meetings.

In conclusion, this afternoon I have addressed some of the issues which I believe will determine the extent to which the bar — and especially the corporate bar — will remain committed to the ideals of professionalism. As the legal community considers these urgent matters, it must fully appreciate that it will be, for all practical purposes, redefining its perception of itself and determining its future role in society. In doing so, it will also affect other institutions, such as corporations, with which lawyers are closely associated and which collectively comprise our private enterprise system. We, and those who follow us, will be required to live with these decisions and, if they prove shortsighted, to pay the price in terms of public confidence and trust and, indeed, perhaps even in terms of a changed system.

I recognize, of course, that these matters have been the subject of much deliberation by many thoughtful attorneys. My purpose today is not to be prescriptive, but to underscore the challenges facing us and to discuss the consequences, as I view them, of the alternatives. To my mind, the fate of our major institutions — such as the bar and the corporate sector — should not be determined by our merely floating with the tide of events or by the cumulative impact of group self-interests. I have no doubt that a healthy and dynamic private enterprise system generating substantial economic growth is essential to a free and open society. Without it, personal freedoms and rights will not survive. And, it is the future of that system and such a society with which we must concern ourselves.

The World Is Very Different Now

LAWYERS MUST RESPOND TO THE FUTURE OF CHANGE

By ROBERT L. GELTZER, *Senior Attorney, J. C. Penney Company and Co-chairman The National Conference on the Role of the Lawyer in the 1980's*

Delivered to the Virginia State Bar 42nd Annual Meeting, Virginia Beach, Virginia, June 21, 1980

I'D like to thank Bill Slate and Welly Sanders for inviting Elise and me to be with you. We appreciate your good fellowship and hospitality. Right now, I want to discuss with you the National Conference on the Role of the Lawyers in the 1980's, to give you some of my views on where our profession is going, what changes we can expect and what you can do to participate in the future. Whatever you decide to do, do something. Whatever it is, if I can help, I would be delighted to do so.

This topic is of vital importance to each of us because no profession is as wed to the past and will be as involved in the future as is ours.

Centuries ago, the then all white male members of the Legal Fraternity leisurely rode the circuits on horseback between their wood-panelled offices furnished with roll top desks, straight back chairs, pot bellied stoves, and brass spittoons. They had no phones, no computer typewriters, no westlaw, no lexis, and no nexis. They had no bar examinations or associations. To prepare for this talk, I skimmed through portions of "The Revolutionary Generation" by Evarts B. Greene. In discussing the social relations of the colonies, it noted that lawyers were growing in such number and influence as to be gaining on the clergy. They were needed to protect the wealth of their clients before English officials and English trained judges. Yet, few were primarily lawyers. The book states: "In Virginia . . . plantation owners who had studied some law took fees for legal advice, while only a few, like George Wythe, were full-time practitioners. Even many judges were laymen . . . [bar] applicants appeared before an examining board, but apparently with no prescribed period of study or apprenticeship." Interestingly, of 100 men whom Thomas Jeffer-

son appointed to high office, 62 were lawyers — at least in name. I say this because the book also reveals that, "Patrick Henry was admitted after a few weeks' study."

The world is very different now and the practice of law is very different now.

Just as when serving a client, we need to inquire, to analyze, to synthesize, to compromise and to advise, we owe ourselves and, in turn, our clients and society, no less. So, to preview and to predict, to explore and to examine, the National Conference on the Role of the Lawyers in the 1980's was convened in the first month of this new decade in Chicago by the Young Lawyers Division and General Practice Section of the ABA.

With over 150 attendees from across the nation and representing small firms and large, government and business, young and seasoned, white and black, men and women, past and future presidents of the American Bar, noted Virginians as Timothy Boone, Bill Cremins, Frank McDermott (who was a member of the joint task force that put the Conference together), Welly Sanders, Bill Slate and Jesse Wilson, the Conference was pleasantly peppered, or perhaps I should say bombarded, with the multitude of issues affecting the profession and society.

Today, the issues are lawyer advertising, pre-paid legal services, legal clinics, law stores, minimum fee schedules, de-lawyering, specialization, pro bono obligations, erosion of attorney-client confidences, external regulation and many more.

But what of tomorrow? It has been said, by noted futurist Alvin Toffler, that much of what we, as attorneys, do "consists of forecasting or predicting for a client what consequences will flow from contemplated action."

In this way we are all futurists. But how do we make these forecasts? How do we advise our clients? We predict based on precedent. We advise as to the future by assimilating the past. We are trained to quench society's thirst for stability by drawing from the pool of past performance.

But, with as demanding a client as society, stability must yield to change. The legal profession has served well as a mirror of social, political and economic evolution and revolution in our society. But change has come slowly to us even though the practice has, of late, been changing at a rapid pace.

This is attributable to the fact that in the last decade, American society has experienced a legal explosion as regulation, legislation and litigation increase at a geometric pace and permeate all aspects of society and our relationships.

While this trend continues, the world is very different now. It appears that a new trend has begun which might be termed a legal implosion. As the practice of law itself has dramatically changed in recent years, the nature and function of the lawyer changed as well.

The organized bar should be proud of the appropriate and introspective analyses it has made on several important issues. But, our pride should not be based on any desire for insulation from regulation or immunity from complaint. Rather, it should be based on our belief that it is right and just, and that we owe society a duty to make ourselves as competent as we represent ourselves to be, and that we choose only to embrace those of our calling who subscribe to and attain the highest professional standards.

I believe that it is only those with such commitments who can be entrusted with attempting to find balanced solutions to problems nurtured by decades of neglect.

While pollution plagues us, energy needs must be met. As they are met, we attorneys will have to deal with a multitude of conflicts. Some of them will be familiar while many will be brand new and involve intricate technologies and types of disputes yet to be envisioned.

The problems that this world faces in terms of energy and allocations of oil, water and sunlight will have to be dealt with by brave new remedies in a world that is very different now. On new battlefields, new truces must be reached founded on established principles of law to prevent today's battlefields from becoming tomorrow's graveyards.

To arrive at these truces with respect to our environment, as well as to such other unfashioned areas of law as consumer rights and corporate rights, students' rights and children's rights, life rights and death rights, welfare rights and poverty rights, in addition to medical rights and transplant rights, all will be better served — it is hoped — by new technologies and new methodologies.

With these, too, we must make our peace — for the sake of our own economics and for the sake of society in a world that is very different now.

Toward this end, the law must be the vehicle for balanced treatment and we lawyers should seek the chance to steer the course. Just as the practice and its practitioners have responded to change in the past, we and our successors must respond to the future of change.

But the constant in the equation will be that, as servants of the law, we will need the confidence of all those we serve in order to serve all those in need.

Those in need are growing. They are individuals; they are corporations; they are governments; they are us. And their number is geometrically increasing in a world that is very different now.

No court system or body of law can long endure if it cannot meet the needs of those who created it. Not only must the problems of access to the courts concern us, but also the price of access. The courts cannot afford to acquire the image that de Tocqueville had of lawyers when he wrote:

> If I were asked where I place the American aristocracy, I should reply, without hesitation, that it is not composed of the rich, who are united together by no common tie, but that it occupies the judicial bench and bar.

Consumers must be served by the legal profession at reasonable costs. While specialization has its place in this very different world, the price for specialization may create a place for the specialty of the general practitioner; medicine already has found that to be the case. Experiments with legal clinics and prepaid legal plans are not here as a result of the idle but imaginative minds of lawyers, but because innovation was necessary to meet new needs in new ways.

Such programs may have wrinkles, but they are now but embryos — yet to mature. We can and must help. We must be sensitive to the tides of change. We must respond.

Corporations need to be represented as well as consumers and at several different levels. In terms of litigation — just as any other consumer of legal services — they are becoming more cost conscious. New dispute resolution mechanisms are needed. Cost expended on protracted litiga-

tion must be reduced. Time devoted to expensive litigation must be saved. Neither we, nor consumers, nor society, nor our overly burdened court system grinding along on the shoulders of underpaid judges — deserves any less.

Corporations, for which 15% of this country's half million lawyers now work, also need representation in a multitude of ways other than litigation. Not the least of these involves defending themselves before government and the public from a growing body of legislation and regulation, lest they strangle our system of free enterprise.

Overly complex, all encompassing and vague statutes, rules and regulations to which attach stiff civil and criminal penalties for even highly technical and debatable violations of law must be weighed against the protections that they seek to achieve. They must not be permitted to stifle innovative thinking on the part of providers of goods and services.

Our free enterprise system works best when laws interfere least. While we must protect the defenseless and defend the unprotected, we must take care that we do not legislate or regulate our of existence the free enterprise system.

Our growing systems of governments need to be served. So exceedingly important is and will be the role of attorneys in serving the government as a client that to it, I now turn my attention. To attend to more and expanded rights, there will have to be an increase in the number of lawyers employed by governments. Right now, they comprise 18 percent of all attorneys. These lawyers may need special training — not only as to substantive law but also as to the manner by which economic and cost/benefit analyses will implode upon their counselling and their opinions.

So long as our governments continue to promise us promotion of political, social and economic equality, they will have to acquire greater sensitivity to the conflicting demands that will be placed upon them. While the lawyers of governments grow in number and grow in expertise, to best serve the public, ways will have to be sought to preclude total isolation of these lawyers from the public that gives them their legitimacy.

With respect to judges, their numbers too will have to grow. They too will have to grow in expertise. They too will have to be compensated commensurate with the duties that they are being asked to discharge, for their world, too, is very different now.

Naturally, in speaking of legal services to the governmental consumer, we must not forget that lawyers have, and will continue to, occupy critical positions in all branches of all governments not only as attorneys and not only as judges. We — more than any other group — have enjoyed a long and intimate relationship with American politics. Yet, we read that each year fewer and fewer legislators are lawyers. We are told that lawyers and politicians rank with used-car salesmen on the bottom of the opinion polls probing the public's confidence and trust in occupational groups.

Yes, the world is very different now. Because "every . . . [person] is his own ancestor, and every . . . [person] his own heir . . . [because every person] devises his own future, and . . . [every] person inherits his own past," we must leave a legacy of a better served and better serving profession. By giving attention to the process of change, we minimize the risk of leaving our future to fate or fortune in a world that is very different now.

Who will fulfill the needs of consumers, the needs of corporations, the needs of governments, and the needs of our profession? For now, you and I must do our best. For the society of 2000, it will be the 120,000 law students and those who follow them into a world that is very different.

So, as we gathered in the Windy City for the National Conference, we sensed a new breath of life for our profession. For it can be the guide to the society of 2000.

In the words of Charles F. Kettering, you must ". . . work day after day, not to finish things; but to make the future better . . . because we will spend the rest of our lives there." The kind of attention that you are now giving to the future will help to make it better. I hope that our report will trigger more discussions and debate and that others will do as you are doing.

We must realize that it was said that lawyers " 'were constantly stirring up troublesome and unnecessary suits' and were 'ignorant, unskillful, and covetous;' looking rather to their own profits than to the interests of their clients." That was said in 1645. The world can be very different now.

So, I suggest, and the report of the conference will do likewise, that we can no longer serve only as a mirror, but, also must be ready and able to serve as a catalyst. We must proact — not react. To do so, we must be willing to accept the process of change, to study it and to apply it.

We have a duty to help forecast society's needs in order to best chart its course. Let us do what we were trained to do. Let us look to the past so that we may preview the future, for "the past, the present and the future are really one — they are *today.*"

Generating Good Signs

THE ULTIMATE IN PERSONNEL SUCCESS

By RICHARD G. CAPEN, JR., *Senior Vice President, Knight-Ridder Newspapers*

Delivered to Alpha Tau Omega Fraternity National Convention and Leadership Conference, Lexington, Kentucky, August 13, 1980

I APPRECIATE this special opportunity to appear before your National Convention and Leadership Conference this afternoon. I appear on your program with some trepidation, however, since I realize there are few occasions when a Sigma Chi is invited to offer words of wisdom at an ATO Convention.

Be that as it may, I would like to share with you a few brief thoughts today on the challenge of leadership — specifically, the factors that I believe can build success into your life in the years ahead.

In my opinion, it is critical to set aside reflective time in our lives for the purpose of focusing on where we are, where

we have traveled and where we would like to be in our lives in the years ahead. This meeting provides such an occasion for you.

To me, one of the greatest tragedies in life is that person who charges through his career believing he has finally made it to the top and then looks back to wonder whether the trip was worth the price. Some such individuals find that they have climbed ladders propped up against the wrong walls.

Careful personal planning can help avoid that error. If we choose not to plan, we allow events to control our lives and, as a result, stumble through the road ahead.

I do not know what the future holds for us, but I do know that what I am today is largely the result of decisions I have made in the past, consciously or unconsciously.

Toward that end I firmly believe that creative opportunities in life and success start with personal attitude.

If you believe it will be a lousy day, it is likely to be just that. If you believe you are going to fail, it is quite likely you will. If you believe there is no hope, there will be no hope.

The person who is a pessimist is seldom ever able to enjoy even the highs of life because he is always worrying about the next low around the corner.

On the other hand, the optimist views life's highs and lows as a stretching process — an experience to be enjoyed at the peak and, in a valley, a painful learning experience on the way to future joy.

Opportunities are at every turn but, in most cases, you must take advantage of them yourself. If we resolve to do positive things in our lives, we can grow. If our attitude is negative, our energies can be easily sapped and our focus on goals blurred.

I am one of those obnoxious characters who wakes up with a start, jumps out of bed, pulls open the drapes, and cheerfully claims that it is a beautiful day — even if it is raining.

For years I have insisted that my family come to the breakfast table with a smile and a pleasant disposition. I haven't always succeeded and, on occasions, have driven them crazy, but I am convinced that my own day is likely to be far more successful, far more enriched, if I can develop the discipline of looking for the good signs around me — even if I have to generate them with a simple smile.

Being positive helps me to get more accomplished; it provides that little extra that often makes the difference between mediocrity and true success.

Developing a positive attitude, however, involves more than simply getting psyched up. To me, it's a way of life. Success can be reflected in your tone of voice, in your demeanor, in the way in which you walk into a room, in the manner in which you deal with others.

Also, a positive attitude can be contagious. It can help others through their own loads in life.

During my Defense Department experience, I came to know Vietnam-era prisoners of war quite well. Their incredible courage and personal faith have been an inspiration to us all. The experience of one senior p.o.w. in particular will always stand out in my mind.

This Air Force officer saw the good signs in his life no matter how miserable that captivity was. Torture was a good sign because it always had to end.

Fridays were good signs because fish was served that day, rather than meat. But, then again, meat was never on the menu.

Christmas was always a good sign because he speculated that prisoners might be freed during the holidays, but, then again, seven Christmases passed before he was released.

This American generated a perpetual optimism that inspired all of those around him. Many contend this enthusiasm, this hopeful look at the future, literally saved lives.

The late Senator Hubert Humphrey always found the good signs in his own life — no matter how tough the battle — including his final fight against cancer.

For Senator Humphrey, it was always a question of time before things would get better.

"The biggest mistake people make is giving up," the Senator said.

"Adversity is an experience, not a final act. Such people look at any setback as the end. They are always looking for the benediction, rather than the invocation.

"To come as close as we finally did in 1968 to winning the highest office in the land and then to lose was hard. But in writing my concession speech, I told myself that it had to be done right because it was the opening speech of my next campaign."

Not long ago, a 25 year-old man, paralyzed from the waist down came within a half-mile of swimming the English Channel. He turned around and started training for the next trip because he refused to give up.

Just this past week, a determined Canadian started his run across his country using an artificial leg that replaced one lost to cancer. Not only has he dramatized his success in overcoming an obstacle, but he raised more than a million dollars for cancer from those who sponsored his run.

We can learn much from these examples — and many others. Our country's history is rich with those who refused to let defeat serve as a permanent setback in their lives. They pass through their defeats and their lows by generating an attitude of positivism and the ability to see the good signs around them.

Abraham Lincoln failed in business in 1831. He was defeated for the Illinois State Legislature in 1833. His sweetheart died in 1835, and he had a nervous breakdown in 1836. He was defeated for Congress in 1843 and, after being elected in 1846, lost his Congressional seat in 1848.

He was defeated for the Senate in 1855, lost out for the vice president in 1856 and was defeated again for the Senate in 1858.

Today, there is a memorial in Washington to this great President — a memorial to his success, with little mention of the defeats I have just cited.

Too often we use failure as a weak excuse for giving up altogether. In the long run, I believe we can succeed in our own lives if we can look at failure as a stepping stone, rather than a stumbling block.

There have been times in my own life — just as in yours I'm sure — when I had little reason to be cheerful. At age 13, I helped support a working mother and assisted in raising a young brother. Today my life is blessed with a wonderful family, a good education, a fine career and a challenging stint of public service. My own low points in the past were eased considerably by generating enthusiasm at times where there was little to be enthusiastic about. But that approach

helped me across the rough spots along the way.

Father John Powell, a Loyola University professor, has provided an excellent definition of fully-human, fully-alive people. To him, fully-alive, vibrant people are always concerned about what can go right in their lives rather than what can go wrong.

They are glad to be who they are, where they are. They see tomorrow as a new opportunity to be eagerly awaited. They find enjoyment in what others regard as drudgery or duty. In short, they place themselves on the growing edge of life.

One psychologist recently estimated that only one person in one hundred could be called fully functioning. By this expert's estimate, such people realize only about one-tenth of their life's potential. How sad a situation that would be!

To be fully alive we must recognize that there are opportunities to live life fully at every turn. Too often we wait for that perfect, dramatic occasion when we can build new meaning into our lives and, by waiting, it often never arrives.

Too many think they will be happy when they get married, or when they have a better job, or when their house is paid for, or when the recession ends, or when their children get through college.

In the meantime, these procrastinators let life slip right through their fingers. They've missed the simple pleasure, the exciting opportunity of today.

This story tells it well:

When I was young, my mother was going to read me a story, but she had to wax the bathroom floor and there wasn't time.

When I was young, my grandparents were going to come for Christmas, but they couldn't get someone to feed the dogs and my grandfather did not like the cold weather and besides they didn't have time.

When I was young, my father was going to listen to me read my essay on "What I Want To be When I Grow Up," but there was Monday night football and there wasn't time.

When I was young, my father and I were going to go hiking in the Sierras but at the last minute he had to fertilize the lawn and there wasn't time.

When I grew up and left home to be married, I was going to sit down with Mom and Dad and tell them I loved them and would miss them, but my best man was honking the horn in front of my house so there wasn't time.

Most success is built on day-to-day achievements, day-to-day, self-generated opportunities, day-to-day enjoyment of life which, in total, enable us to use our full potential.

The most exciting people I know are those who generate these opportunities, who approach life enthusiastically and who are not satisfied merely to get by.

Such successful people always crave new plateaus in life. Once they reach one level of achievement, they move on and seek the potential of the next.

As they build that success into their own lives, they also reach out and inspire success in the lives of others.

I am constantly amazed at how important a simple word of encouragement can be to lift a person's spirit, to undo a blow to his or her ego or to help overcome a setback.

Your cheerful optimism can bring success in your own life. But it also can result in achievement of others.

Each day I find myself guilty of passing by little occasions when I could reach out and touch the life of another, the life of one who needs that encouragement, who needs that enthusiasm, who is looking for a good sign. Far too often, I am guilty of passing by those who are crying out for encouragement in their lives.

How often do we pick up the phone to bring cheer to a sick friend?

How often do we really use patience in attempting to understand our children?

How often do you stop long enough to get at the root of what's bothering a good friend or a business associate? The simple act of caring is a powerful tool in the extension of your success into the lives of others.

To me, the ultimate in personal success is when we are strong enough in our own enthusiasm, in our own achievements that we are able to build similar characteristics in the lives of others we are fortunate to touch. That is a true mark of dynamic leadership and those leadership talents often can be greatly enhanced by generating good signs into your